Kansas Home and Community-Based Services Settings Rule

Statewide Transition Plan

As amended March 20, 2017

Purpose

On March 17, 2014, the Centers for Medicare and Medicaid Services (CMS) issued the Home and Community Based Services Settings Rule (called the Rule in this transition plan). The Rule requires states to review and evaluate Home and Community-Based Services (HCBS) Settings, including residential and nonresidential settings. States are required to analyze all HCBS settings where HCBS participants receive services to determine current compliance with the Rule. The Kansas Department for Aging and Disability Services (KDADS) has created a State Transition Plan (STP) to assess compliance with the HCBS Settings Rule and identify strategies and timelines for coming into compliance with the Rule. The federal regulation for the new rule is § 42 CFR 441.301(c)(4)-(5). More information on the rules can be found on the CMS website at www.medicaid.gov/hcbs.

Kansas submitted their initial statewide transition plan on March 17, 2015. Kansas has undergone staff changes and as a result changed direction with their Statewide Transition Plan and implementation. As a result of this change and in accordance with requirements set forth in the Rule release January 16, 2014 (See § 42 C.F.R. 441.301(c) (6)), Kansas now submits their amended Statewide Transition Plan. Changes include increasing stakeholder participation, integrating stakeholder recommendations, revised timelines, and proactive approaches for engaging stakeholders. The identified need for a new direction was derived from the collective views not only of service recipients, HCBS providers, and the state, but also significant and ongoing technical assistance provided to Kansas by officials from the Centers for Medicare and Medicaid Services (CMS). Further, this amended plan includes summaries from previous and ongoing public comment sessions along with the KDADS responses.

The amended STP draft was open for public comment from, November 15, 2016 through December 28, 2016. The public comment period lasted 30 days to allow an opportunity for HCBS consumers, providers, stakeholders and other interested parties to provide input on the Transition Plan. Notice of comment period was posted on the KDADS web site disseminated through local Community Developmental Disability Organizations and Aging and Disability Resource Centers. This plan has been revised to incorporate public comment. Please see Appendix D for responses to public comments. An overview of the seven 1915(c) waivers currently operating in Kansas follows.

For individuals who need accommodation to access this information, contact KDADS by phone at 785-296-4986 by or email HCBS-KS@kdads.ks.gov Subject Line: KDADS-HCBS Transition Plan Accommodation

Overview of Medicaid Home and Community Based Services Waivers							
Waiver	**Autism (AU)**	**Intellectual/ Developmental Disability (I/DD)**	**Physical Disability (PD)**	**Technology Assisted (TA)**	**Traumatic Brain Injury (TBI)**	**Frail Elderly (FE)**	**Serious Emotional Disturbance (SED)**
Institutional Equivalent	State Mental Health Hospital Services	Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF IDD)	Nursing Facility	Acute Care Hospital	Traumatic Brain Injury Rehabilitation Facility (TBIRF)	Nursing Facility	State Mental Health Hospital
Eligibility	Time of diagnosis through 5 years of age Diagnosis of an Autism Spectrum Disorder Meet functional eligibility requirements	Individuals age 5 and up Meet definition of developmentally disabled Meet functional eligibility requirements	Individuals age 16-64* Determined disabled by SSA Needs assistance with activities of daily living Meet functional eligibility requirements	Children under the age of 22 Dependent upon intensive medical technology Medically fragile Meet functional eligibility requirements	Individuals age 16-64* Experienced a traumatically acquired brain injury Meet functional eligibility requirements	Individuals 65 or older Functionally eligible for nursing care	Children 4-18; age exceptions are granted upon need. Determined seriously emotionally disturbed by CMHC Meet admission criteria for state hospital
Point of Entry	Preliminary Autism Application sent to the HCBS/Autism Program Manager	Community Developmental Disability Organization	Aging and Disability Resource Center	Children's Resource Connection	Aging and Disability Resource Center	Aging and Disability Resource Center	Community Mental Health Center
Financial Eligibility Rules	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Income over $727 per month must be contributed towards the cost of care	Only the individual's personal income and resources are considered Parents income and resources are not counted, but are considered for the purpose of determining a family participation fee Income over $727 per month must be contributed towards the cost of care

* If individual is on the waiver when turning 65, they may choose to remain.

Contents

Summary of Kansas' Steps to Compliance:

Systemic Assessment (completed)

- Inventory and description of HCBS settings
- Review of statutes, regulations, contracts, policies and manuals
- Setting types that are in compliance, partial compliance, or not in compliance with the HCBS settings rule, or require heightened scrutiny

Settings Assessment (in process)

- Assessments by desk review and onsite visits for HCBS settings
- Identifying areas of non-compliance
- Identifying the number of individuals affected by the HCBS Settings Rule

Remediation (in process and ongoing)

- Plan from providers to the state with timelines to come into compliance with the Rule
- For providers unable to come into compliance, a transition plan to move individuals to settings that are in compliance with the Final Settings Rule, the provider will provide a transition plan for the individuals to locate into a setting that is in compliance with the rule
- Ongoing and continuous monitoring

Heightened Scrutiny (in process)

- For settings presumed by CMS and/or the State not to comply with the Final Settings Rule, the state will request heightened scrutiny for the settings. An onsite visit is conducted to determine if there is sufficient evidence to present to CMS that the setting is in fact community based. Settings in Kansas that require heightened scrutiny are sheltered workshops, day programs, adult day care, Assisted Living, Residential Health Care, Home Plus facilities that are attached or on the ground of an institution

Monitoring (in development)

- Ensuring ongoing compliance with the Final Settings Rule
- Public Engagement (ongoing)
- Notifying affected individuals about the impact of the HCBS settings rule and related changes
- Providing forums for public comment and responses received Including public comments and responses
- Developing and/or revising the Transition Plan based on input received
- Assisting in the development of a transition plan to come into compliance with the settings rule

Systemic Assessment

Waiver Services – Risk Assessment

As a part of the systemic assessment, KDADS reviewed the services offer in each HCBS waiver program. When evaluating these services, KDADS determined the level of risk and categorized. In this analysis KDADS utilized the categories listed below and provided specific rationale on how this conclusion was reached. The categories include:

- **Low**: This service is currently believed to be compliant with final rule requirements.
- **Medium**: This service may not currently be compliant with final rule requirements as currently defined by the HCBS waiver. Regulatory or policy changes may be required to achieve compliance.
- **High**: This service is not currently compliant with final rule requirements as currently defined by the HCBS waiver. Regulatory or policy changes will be required to achieve compliance.

In addition to analyzing risk per waiver service, KDADS also examined current utilization as indicated on most recent MCO Utilization Management Report for 2016 quarter 4. This information will assist in determining overall risk and informs the strategies developed throughout this plan.

Physical Disability Waiver Risk Assessment

Physical Disability Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Personal Care Services (PCS)	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD participants.	3721
Financial Management Services (FMS)	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	4339
Assistive Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	27
Enhanced Care Services	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD waiver participants.	917
Home-Delivered Meals Service	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	1487

Medication Reminder Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	286
Personal Emergency Response System and Installation	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2065

Frail Elderly Waiver Risk Assessment

Frail Elderly Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Financial Management Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	1986
Adult Day Care	**Medium** - This service has medium risk stemming from the current location of many adult day cares within hospitals, institutions, or nursing facilities.	38
Assistive Technology	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	9
Comprehensive Support- Provider Directed	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD waiver participants.	13
Comprehensive Support - Self-Directed	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD waiver participants.	5
Enhanced Care Service	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD waiver participants.	148
Home Telehealth	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	164
Medication Reminder	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	75
Nursing Evaluation Visit	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	9
Oral Health Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	0
Personal Care	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule	3596

Services - Provider Directed	requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which some limited PCS services to PD waiver participants.	
Personal Care Services- Self Directed	**Medium** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements. This service has medium risk stemming from final rule compliance gaps present in assisted living facilities, residential health care facilities, and home plus which provide some limited PCS services to PD waiver participants.	1805
Personal Emergency Response	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2258
Wellness Monitoring	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	560

HCBS-IDD Waiver Risk Assessment

HCBS-IDD Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Personal Care Services (PCS)	**Low** - Largely this service is provided in a participant's home and poses no risk to compliance with final rule requirements.	640
Financial Management Services (FMS)	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2672
Assistive Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	24
Enhanced Care Services	**Low** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements.	75
Day Supports	**Medium** - This service provides a variety of services under this category. This service has medium risk stemming from the current design of sheltered workshops and/or congregate-style work centers only for persons with IDD.	4545
Overnight Respite Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	31
Residential Supports	**Medium** - This service provides a variety of services under this category. This service has medium risk stemming from the current design of group homes.	5164
Supported Employment	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	42
Medical Alert Rental	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	60
Sleep Cycle Support	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	101
Specialized Medical Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	43

Supportive Home Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	394
Wellness Monitoring	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	733

Technology Assisted Waiver Risk Assessment

Technology Assisted Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Medical Respite Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	24
Financial Management Services (FMS)	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	188
Personal Care Services	**Low** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements.	188
Health Maintenance Monitoring	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2
Home Modification	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	0
Intermittent Intensive Medical Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	6
Specialized Medical Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	337

Traumatic Brain Injury Waiver Risk Assessment

Traumatic Brain Injury Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Personal Care Services (PCS)	**Low** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements.	366
Occupational Therapy	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	61
Physical Therapy	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community	78

	settings, and is not perceived to pose any risk to meeting final rule requirements.	
Speech and Language Therapy	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	56
Financial Management Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	231
Assistive Services	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	1
Behavior Therapy	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	56
Cognitive Rehabilitation	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	141
Enhanced Care Service	**Low** - Largely this service is provided in a participant's home and poses no risk to compliance with the final rule requirements.	90
Home Delivered meal Service	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	127
Personal Emergency Response System and Installation	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	125
Transitional Living Skills	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	236

Autism Waiver Risk Assessment

Autism Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Intensive Individual Supports	**Low** - This service is moving to the state plan via Autism waiver amendment/renewal.	44
Respite Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	14
Consultative Clinical and Therapeutic Services (autism specialist)	**Low** - This service is moving to the state plan via Autism waiver amendment/renewal.	45
Family Adjustment Counseling	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2
Interpersonal Communication	**Low** - This service is moving to the state plan via Autism waiver amendment/renewal.	5

Therapy		
Parent Support and Training (peer to peer) Provider	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	24

Serious Emotional Disturbance Waiver Risk Assessment

Serious Emotional Disturbance Waiver		
Service	**Level of Risk Associated with Compliance with Final Rule**	**Number of Participants**
Attendant Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	1488
Independent Living/Skills Building	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	235
Short-Term Respite Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	980
Parent Support and Training	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	1924
Professional Resource Family Care	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	7
Wraparound Facilitation	**Low** - This service is fully integrated into the community, provides support to individuals to remain in community settings, and is not perceived to pose any risk to meeting final rule requirements.	2608

HCBS Settings Inventory

Reference materials- Appendix B

Current Settings Compliance Presumption and Inventory

The first component of the setting review involves identifying and analyzing the types of settings which HCBS services are provided. This analysis was based on following questions:

1. What are the types of settings where HCBS participants receive services?
2. What is the standard used to review the setting?
3. What is the presumption of compliance against the final settings rule?

Once these questions were discussed, KDADS grouped these settings into the following categories:

1. **Settings Presumed Fully Compliant**: These settings are expected to meet all the characteristics of fully compliant settings. This presumption is based upon the fact the settings are typically randomly located across the community, do not have an isolating effect, and the individual is free to exercise individual choice based on preference.
2. **Settings may be compliant or will be compliant with remediation**: These settings may or may not currently be compliant but it is believed with specific remediation the settings will become compliant. The general issues surrounding these categories stem from licensing regulations that need changed or the setting is perceived to have an isolating effect on the individual.
3. **Settings presumed to be non-compliant but by present evidence for heightened scrutiny:** These settings are current presumed to be non-compliant but could logically present evidence which would allow for compliance with heightened scrutiny. These settings are either co-located or adjacent to a non-compliant setting (nursing or institutional setting).
4. **Settings do not and will be unable comply:** These settings are determined to be both out of compliance and unable to comply with the HCBS settings rule. These facilities are characterized as being a nursing facility, institutional, and have a strong isolating effect of the individual.

Kansas Home and Community Based Services (HCBS) Programs Transition Plan- Setting Analysis	
Settings presumed fully compliant	
Type of Setting	**Standard for Review**
Member owns/lease home, not HCBS provider owned or controlled and HCBS services are provided in person's home	Sample of settings reviewed by State
Supported Employment- provided in community setting/competitive employment	Sample of settings reviewed by State
Foster Family Homes	Licensure/Certification
Setting may be compliant or will be compliant with remediation	
Type of Setting	**Standard for Review**
Children's Residential- Pre-Foster Care Placement	Sample of settings reviewed by State
Provider owned/controlled homes and apartments where majority of residents receive HCBS that are located in close proximity to each other. (i.e. multiple settings located on same street, apartment, cul-de-sac, settings that isolate from broader community, etc.)	Sample of settings reviewed by State
Assisted Living Facilities- Stand Alone	Licensure/Certification
Home Plus Facilities	Licensure/Certification
Boarding Care Homes	Licensure/Certification
Adult Day Care- Stand Alone	Licensure/Certification
IDD Residential- Shared Living	Licensure/Certification
IDD Residential- Group Home (4-8 bed setting)	Licensure/Certification
IDD Day Services- disability specific day settings/Sheltered Workshops	Licensure/Certification
Settings presumed to be non-compliant but may present evidence for Heightened Scrutiny	
Type of Setting	**Standard for Review**
Residential Care Facilities	Licensure/Certification

Adult Day Care Facilities- In institution/hospital/nursing facilities	Licensure/Certification
Assisted Living Facilities- Located in or adjacent to nursing facilities	Licensure/Certification
Any setting on the grounds of or adjacent to a public institution	Sample of settings reviewed by State
Settings do not and will be unable to comply	
Type of Setting	**Standard for Review**
Intermediate Care Facilities for Individuals with Intellectual Disabilities	Licensure/Certification
Nursing Facilities/Skilled Nursing Facilities	Licensure/Certification
Institutions- Hospitals, Psychiatric Residential Treatment Facilities	Licensure/Certification
State Hospitals (Parsons, KNI, Osawatomie, and Larned)	Licensure/Certification

Following the setting analysis provided above, KDADS reviewed agency data to determine current inventory. This inventory was arrived at based upon the best available data which included:

1. **Current licensed facilities:** The license review reveals both the number of licensed providers and total number of settings per license. The issuing authorities responsible for license approval were located at KDADS, Kansas Department of Health and Environment (KDHE), and the Kansas Department of Children and Families.
2. **Non-Licensed facilities**: For settings that do not require licensure, KDADS relied on information provided from the KanCare MCOs.

Current HCBS Settings Inventory

Current HCBS Settings Inventory	
Setting	**Current Inventory**
Member owns/lease home, not HCBS provider owned or controlled and HCBS services are provided in person's home	11,500
Supported Employment- provided in community setting/competitive employment	89
Foster Family Homes	633
Children's Residential- Pre-Foster Care Placement	55
Provider owned/controlled homes and apartments where majority of residents receive HCBS that are located in close proximity to each other. (i.e. multiple settings located on same street, apartment, cul-de-sac, settings that isolate from broader community, etc.)	147
Assisted Living Facilities- Stand Alone	116
Home Plus Facilities	57
Boarding Care Homes	0 (There are 6 in the state but currently no HCBS participants are receiving services in these types of facilities)
Adult Day Care- Stand Alone	1
IDD Residential- Shared Living	250
IDD Residential- Group Home (4-8 bed setting)	2500
IDD Day Services- disability specific day settings/Sheltered Workshops	219

Residential Care Facilities	1
Adult Day Care Facilities- In institution/hospital/nursing facilities	165
Assisted Living Facilities- Located in or adjacent to nursing facilities	60
Any setting on the grounds of or adjacent to a public institution	356
Intermediate Care Facilities for Individuals with Intellectual Disabilities	24
Nursing Facilities/Skilled Nursing Facilities	0 (HCBS funding is not available for these facilities)
Institutions- Hospitals, Psychiatric Residential Treatment Facilities	0 (HCBS funding is not available for these facilities)
State Hospitals (Parsons, KNI, Osawatomie, and Larned)	4 (0 residents receive HCBS funding)

During this process the inventorying process, the state has identified an opportunity for improvement. The state will work with MCOs to identify the specific setting the service will be delivered in as part of the person centered service plan development process resulting in increased effectiveness of the settings inventory process.

Regulatory Assessment

The state initiated internal strategy meetings with the commissions within KDADS and other state agencies to review regulations, statutes, contracts, policies, procedures and practices for assuring compliance with the Rule. The State Medicaid Agency, the Kansas Department of Health and Environment (KDHE), is represented and participates in trainings and meetings related to the Rule. The State Operating Agency (KDADS) and The State Medicaid Agency (KDHE) meet twice monthly to review the State's progress in coming into compliance with the Rule. A KDHE representative participates in statewide public comment sessions and trainings.

In evaluating regulations KDADS reviewed three categories of items. These categories were:

1. Licensing regulations for all settings that:
   a. May be compliant or will be compliant with remediation; and,
   b. Presumed to be non-compliant but may present evidence for Heightened Scrutiny.
2. Person Centered Service Plan requirements
3. HCBS Waivers
4. Current KDADS HCBS Policy

Licensing Regulations

Regulatory Crosswalk- Appendix A

Adult Care Home State Statutes (http://www.kdads.ks.gov/commissions/scc), Kansas Administrative Regulations, and IDD licensing regulations (http://www.kdads.ks.gov/provider-home/home-and-community-based-services-provider-information/intellectual-developmental-disability-provider-information) were cross-walked for compliance with the Rule. The regulatory crosswalk found in Appendix A which specifically

identifies all current gaps with final settings rule requirements.

In general, current regulations address all but a few areas of the Rule that will be incorporated into new regulation. These include:

- A review of State Statutes and Regulations revealed a need for the State to make a change in Adult Care Home Regulations to incorporate appeal rights for individuals living in State Licensed Adult Care Homes. Current policy provides adequate notice for involuntary discharge but does not identify appeal rights. To remediate this, Kansas will utilize the regulatory process for inclusion of appeal rights in the Kansas Administrative Regulations. The updated regulations should be effective by 2021.
- Current State Regulations do not address locks on bedroom doors or provide the opportunity to select with whom to eat. However, Adult Care Homes have implemented policies to increase compliance with Final Rule requirements including providing individuals opportunities to choose where and with whom they have meals. This process is part of the state survey process and if not followed, results in a deficient practice during the survey process. In some cases, in order to ensure the safety of persons served, Special Care Units may need to restrict access to unsupervised areas outside of the unit. This is addressed in the person-centered service plan.
- For provider-owned or controlled settings, a lease is required but may not meet the landlord tenant act. State licensed facilities have a written agreement requirement, however, it may not include the intent of the landlord tenant act. Kansas plans to add this requirement by regulation or policy for all settings. The state licensed facilities would be required to have a lease or written agreement having the intent of the landlord tenant act. KDADS legal staff is working with HCBS staff to draft regulatory language and policy for the changes required. In response to stakeholder comments, this regulatory language will address the following final settings rule requirement:

  "Participant has a legally enforceable agreement for the unit or dwelling where the participants resides"

  Regulatory language will be added either via license or HCBS waiver and applied to all HCBS settings indicated in this transition plan. KDADS does not anticipate approval of every lease agreement by the state, rather we anticipate a lease agreement be provided at time of enrollment as a contracting provider. As KDADS develops the specific regulation and policy a clear process will be established.

For additional details please reference Appendix A.

Person Centered Service Plan Requirements

Following quality data from 2014 performance measure outcomes and an October 2016 on-site audit of KanCare MCOs, KDADS has begun a systematic review of the person centered service plan process. KDADS is reviewing its current processes regarding plan of care development, and more inclusively the integrated support planning (ISP) document and associated processes. This evaluation has/will include:

1. A review of the currently approved 1915 (c) waivers
2. A required self-assessment by the MCO of their current ISP cross-walked with person centered service plan (PCSP) requirements present in the final settings rule and current waiver performance measures. This self-assessment will include specific citations and documentation requirements providing evidence of compliance.
3. A gap assessment of current process and ISP/PCSP planning document areas of non-compliance.
4. Establishment of an updated comprehensive PCSP policy and standardization.
5. Training and PCSP policy and implementation

In addition to the above process changes, KDADS has worked directly with stakeholders and KDHE to develop a comprehensive care planning and functional eligibility instrument. This instrument, tested and proven reliable and effective by InterRAI and University of Kansas (KU), provides a platform for comprehensive care planning from functional eligibility assessment to completed ISP. This change will allow KDADS more oversight over plan of care components, provide standardization across MCOs, and will create a seamless reporting environment. Currently the PD, FE, and TBI tool is ready for field testing and simply requires approval from CMS. CMS has indicated any change would require applicable waiver amendments even when this change was previously indicated in the currently approved waivers and does not represent a substantial change. As such immediate improvement on areas of the level of care and plan of care assurances have been significantly impacted.

Person Centered Service Planning – Project Plan

Action Steps	Milestones	Deliverables	Target completion date	Responsible Entity	Status Update	Date Completed	CMS Accept
Waiver review and identification of inconsistencies for each 1915 c wavier by independent reviewer (Wichita State University)	Delivery of each waiver review report	Report	3/1/17	WSU	In progress-Expected to meet target		
MCO ISP self-assessment and gap analysis	Complete review and analysis of MCO ISP self-assessments and documentation	Verification of self-assessment	2/15/2017	KDADS	Completed	2/20/2017	
	Determine current ISP gaps as cross-walked between federal requirements and 1915 (c) wavier	Draft gap assessment	3/1/2017	KDADS	Completed	2/20/2017	

	performance measures						
	Produce final report of current gaps and project plan to address	Finalized gap assessment	3/15/2017	KDADS	Completed	3/10/2017	
Draft and finalize ISP planning policy to address each federal requirement and 1915 (c) performance measure	Develop policy and route through internal processes including 30 day public comment period.	Approved policy	8/15/2017	KDADS	Expected to meet target		
Conduct follow-up activities to ensure performance of required activities.	Training for MCOs and applicable licensed providers	Follow-up checks	Quarterly and on-going	KDADS, MCOs	Expected to meet target	On-going	

HCBS Waivers

HCBS waivers were reviewed for compliance in March 2016. The change in direction of the Statewide Transition Plan by the state will require revisions to individual HCBS waivers. Required waiver revisions include changes in the language for the State Transition Plan that are necessary to comply with the Rule. This will be completed in coordination with the State Medicaid Agency that is the Kansas Department of Health and Environment (KDHE) and CMS. More specifically KDADS expects appendixes A, C, D and E to require revision. KDADS expects these revisions to occur in the following order and timeframe:

- Autism Waiver: Approved April 2017; renewal due 2022
- Severe Emotional Disturbance Waiver: Approved April 2017; renewal due 2022
- Physically Disabled Waiver: Approved March 2016; renewal due January 2021
- Frail Elderly Waiver: Approved March 2016; renewal due January 2021
- Traumatic Brain Injury: Approved March 2016; renewal due January 2021
- Technology Assisted Waiver: Approved March 2016; renewal due January 2021
- Intellectual/Developmentally Disabled Waiver: Approved March 2016; renewal due January 2021

Key items to be considered in waiver amendments and renewals include:

1. Perform analysis of current wavier operations and establish goals for waiver revision.
2. Maximizing opportunities for self-direction in accordance with Kansas statutes, specifically K.S.A. 39-7, 100.

3. Develop strategies and services to better support employment goals and a person centered approach.
4. Evaluate waiver services and remediate risk to Final Rule compliance.
5. Evaluate current waiver performance measures and associated processes.
6. Evaluate current 372 reports, Corrective Action Plans, and implement remediation efforts as appropriate.

Specific to the I/DD waiver, KDADS has requested technical assistance from the National Association of State Directors of Developmental Disabilities Services (NASDDDS). Following this request, KDADS has been approved for technical assistance from CMS to support the following:

1. Provide technical assistance to the state related to identifying sources, obtaining and analyzing supports and services, trends and demographics of the current waiver environment,
2. Assist the state in targeting areas for improvement in services and supports particularly in day, employment and residential service and supports. Help the state articulate expectations related to improvements to all partners, including but especially MCOs, providers and CDDOs.
3. Technical assistance/guidance on increasing the quality of services for people with I/DD through planning with state staff and stakeholders.
4. Provide short term, targeted strategic planning in concert with stakeholders to assist informing service and support review and recommendations.
5. Assist the state in reviewing service specifications, with a primary focus on residential and nontraditional living options and employment supports.

Following each waiver amendment or renewal, KDADS will follow the KDHE policy process for waiver submission. As part of this process, KDHE's contractor Hewitt Packard Enterprises (HPE) will update the corresponding KMAP manual. This will ensure consistency between the waiver language and the KMAP manual for the corresponding waiver.

Current KDADS HCBS Policy

KDADS has begun a systematic review of all policy documents (including the HCBS waivers). KDADS has contracted with Wichita State University (WSU) to perform both an independent review of the HCBS waivers and HCBS policy. The project objectives for this review include:

1. Perform an environmental scan with SWOT analysis and gap assessment concerning HCBS policies.
2. Creation of a sustainable policy advisory council consisting of HCBS stakeholders.
3. Engage stakeholders to solicit feedback on current policy opportunities and needs.
4. Develop prioritized list of HCBS policies to be implemented.
5. Develop policy revision and ongoing review process.

These objectives are designed to meet the following short term goals:

1. Establish policy advisory council.
2. Perform a SWOT analysis as part of HCBS environmental scan.
3. Review and catalog current HCBS policies.
4. Determine policy needs based on HCBS policy gap assessment.
5. Gather stakeholder feedback concerning current gaps in HCBS policies.
6. Determine policy priorities and provide priorities strategic work plan.
7. Develop long term process for ongoing policy revision and review.

When achieved KDADS believes the following long term goals will be achievable:

1. Develop and maintain a strategic plan to guide HCBS policy development and implementation.
2. Maintain the HCBS policy advisory council to convene to provide council on HCBS policy implementation.

New policies or updates to existing Kansas policies that impact HCBS will incorporate language to comply with the Final Rule. Changes in policies require a posting and a public comment period as well as being processed through the State Medicaid Policy review. Contracts affecting HCBS were reviewed and when renewed will incorporate language to comply with the Rule no later than fiscal year ending 2021. This includes contracts with Managed Care Organizations, Community Mental Health Centers, Community Developmental Disability Organizations (CDDOs), Aging and Disability Resource Centers (ADRC), Financial Management Services (FMS), and CDDO affiliation agreements Language will be added for Care Coordinators from the Managed Care Organizations to report to the State any non-compliance issues related to the Rule.

An additional policy area KDADS has reviewed pertains to providers' enrollment and annual qualification verification. As part of this process, KDADS and KDHE are establishing Kansas Medical Assistance Program provider enrollment requirements. As this process is more defined, KDADS will ensure the HCBS waivers are updated with the finalized policy language. As part of this process, HCBS providers (as well as all KanCare providers) will receive training regarding KMAP changes. At the conclusion of this project, the MCOs will be required to contract only with providers enrolled and verified with KMAP. This will help to mitigate issues with both provider qualifications and final settings rule requirements.

Regulatory Assessment Remediation Timeline

Transition Activity	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
Assessment: Review existing policies, regulations, statutes, manuals, etc. for compliance with the requirements of the Final	1. Review existing policy, regulation, statute, and manuals, identify areas of	KDHE, KDADS	HCBS providers and participants, MCOS, KDHE	2014	2/1/2021	In progress-partially complete

Rule	compliance/noncompliance.					
	2. Identify necessary changes and process required to make needed changes.	KDHE, KDADS	HCBS providers and participants, MCOS, KDHE	2014	2/1/2021	In progress-partially complete
State Remediation: Complete changes to policies, regulations, statutes, manuals, etc. as identified in systemic assessment (see regulatory crosswalk, STP Appendix _____)	1. Revise policies and manuals as applicable. These documents cannot deviate from Final Rule.	KDADS	HCBS providers and participants, MCOS, KDHE	2/1/2017	2/1/2021	In progress. The project will complete when the last waiver revision is approved by CMS.
	2. KDHE/KDADS to meet twice monthly to review State progress toward compliance.	KDHE, KDADS	KDADS, KDHE	1/10/2017	Ongoing	On-going. This occurs at the bi-weekly Medicaid Policy Meeting and Bi-weekly policy approval meeting
State Remediation: Change in Adult Care Home regulations to incorporate appeal rights in the K.A.R.	1. Develop a draft piece of revised regulatory language and send it through the required process. This could take up to two legislative cycles.	KDADS	KDADS, Adult care homes, adult care home participants	2/1/2017	2/1/2021	In progress
State Remediation: Add requirement by regulation or policy to address Landlord Tenant Act in lease agreements.	1. Develop a draft piece of revised regulatory and/or policy language and send it through the required process. This could take up to two legislative cycles	KDADS	KDADS, Adult care homes, adult care home participants	2/1/2017	2/1/2021	In progress
Stakeholder notification, engagement, and education around changes	1. Provide ongoing notification and education to stakeholders throughout the process as changes are made/proposed	KDADS	HCBS providers and participants, MCOS, KDHE	Ongoing		Ongoing
Provider Remediation: HCBS Providers revise and update policies and procedures as needed to meet Final Rule requirements.	1. Provide ongoing notification and education to stakeholders throughout the process as changes are made/proposed	KDADS	KDADS, MCOs, HCBS providers	1/1/2018	1/1/2021	In progress

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Settings Assessment

Provider Surveys

Reference materials- Appendix B.1 & B.2

Process

An attestation survey, in which providers were requested to indicate their compliance with required elements of the Final Rule, was designed by KDADS and administered to providers by WSU CARE in 2015. The same survey was re-administered in 2016 to gather information from providers that had not previously responded. The results of these two administrations were combined and provided to KDADS to help guide their on-site assessments. A total of 507 providers responded.

The provider attestation survey was designed to allow providers to indicate whether they fully comply, partially comply, or do not comply with each Final Rule standard. They were also able to select "not applicable." The survey can be found in Appendix B.1 & B.2.

The following protocol was applied in determining whether a setting should be counted as compliant:

- The provider must have attested to being fully compliant with all requirements included in the survey.
- Settings were counted as non-compliant if "do not comply" or "partially comply" was selected as an answer to one or more of the attestation questions.
- Settings were counted as non-compliant if not all of the attestation questions were answered.
- An answer of "not applicable" to any attestation question was disregarded when applying the previous protocols. Therefore, answering "not applicable" would not automatically cause a setting to be counted as non-compliant.

Findings

Out of 723 settings, 132 (18%) attested to being fully compliant to every Final Rule standard that was applicable, while 591 (82%) were either not compliant or partially compliant to one or more applicable standards. Seventy (70) of 529 residential settings were compliant (13%) while sixty-two (62) out of 194 non-residential settings were compliant (32%). Fifty-one (51) out of 723 (7%) requested heightened scrutiny. Only one of the providers requesting heightened scrutiny attested to being fully compliant. KDADS scheduled onsite assessments for providers requesting heightened security.

Reasons for Non-Compliance

There were a variety of reasons setting indicated they were non-compliant with Final Rule requirements. The most common reasons fell within three broad categories. These included:

- Non-compliance with general HCBS characteristics
- Isolating characteristics
- Characteristics of an institutional setting

Non-compliance with general HCBS characteristics.

The most frequent non-compliance issues fell into the following areas:

- The residential unit or location must be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.
  - The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity.
  - If landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement for each HCBS participant that provides protections that address eviction processes and appeals comparable to those provided under the landlord tenant law.
- Each individual has privacy in their sleeping or living unit:
  - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
  - Individuals sharing units have a choice of roommates in that setting.
  - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Individuals are able to have visitors of their choosing at any time.
- The setting is physically accessible to the individual.

Isolating Characteristics

The most frequent non-compliance issues fell into the following areas

- Setting is designed to provide individuals with disabilities with multiple types of services and activities on-site, including housing, day services, medical, behavioral/therapeutic services, or social and recreational activities.
- People have limited, if any, interaction with the broader community.
- Settings that use/authorize interventions/restrictions used in institutional settings or are deemed unacceptable in Medicaid Institutional settings (e.g. restraints and seclusion).

Characteristics of institutional settings

The most frequent non-compliance issues fell into the following areas

- Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient intuitional treatment.
- Any setting that is located in a building on the grounds of, or immediately adjacent to a public institution.
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Onsite Assessment Process

Reference materials- Appendix B.3 – B.6

Process

An onsite assessment tool was developed in August 2015 by a workgroup of state staff, MCOs, and stakeholders including: parents, family members, Adult Care Homes, IDD provider groups, Assisted Living facilities, Community Mental Health Centers, and Autism service providers. Settings that are compliant based on state licensing regulations are presumed by the state to be in compliance with the rule based on the state licensing regulations. These settings will be validated for compliance with a statistically valid sample size for an onsite visit.

Onsite assessments were completed by teams formed by KDADS, consisting of one state staff paired with volunteers. The state invited providers, provider organizations, Medicaid participants, advocates, the state ADA coordinator and Managed Care Organizations (MCOs), to coordinate efforts to conduct onsite assessments. On July 7, 2016, KDADS with Wichita State University provided training for onsite assessments. Attendees learned how to use the onsite review tool, received guidance on conducting assessments, and reviewed consumer rights and freedoms, waiver service descriptions, HCBS acronyms, rules and regulations for HIPAA and confidentiality before signing a volunteer agreement and conflict of interest form.

Using the onsite assessment tool that was developed, the State conducted onsite assessments of a randomly chosen, sample of settings that attested to being fully compliant with the Rule requirements in order to validate data provided. A sample of providers that did not complete the attestation survey will also be randomly selected for onsite assessment as part of the full transition plan toward compliance. The list of providers not responding to the attestation survey who were selected for onsite assessment was developed by comparing a list of all HCBS providers to the list of providers that completed the attestation survey. Providers stating their setting is not in compliance or were in partial compliance will be contacted by the state to determine next steps.

The state did not conduct onsite assessments for providers noting partial compliance or non-compliance as a part of this assessment process. The state will meet with the providers who have settings that are not in compliance or are partially compliance to offer technical assistance via learning collaborative. Providers will be required to submit their transition plan to the state with their timelines to come into compliance.

Onsite assessments began the week of July 25, 2016 for providers who attested to being fully compliant with the Rule and were completed in December of 2016. Reviews consist of observation, record review and interviews with individuals and staff at the setting using the standard tool developed by workgroups. All settings requesting heightened scrutiny received an on-site assessment. Those other settings requiring heightened scrutiny will be identified and have onsite assessments completed in 2020.

A review of literature from other states found the level of relative compliance in Kansas similar to that of Hawaii, Kentucky, Tennessee, and Ohio. At the time of this plan draft, continued analysis of the full survey data is still in process and therefore not available for publishing.

Additional Settings Assessment Measures

Reference materials- Appendix B.7

A consumer survey was posted online and mailed to 3000 individuals receiving HCB services in Kansas on July 25, 2016. The survey asked individuals about their experience in their HCBS setting. The consumer survey responses will be tied to the setting to determine the individual's experience in the setting. Three-hundred thirty-six (336) HCBS consumers completed the survey regarding whether their experiences were consistent with HCBS Final Rule requirements and satisfaction with HCB services.

In general, consumers indicated that their experiences were largely consistent with Final Rule requirements (e.g., choice and satisfaction). Across all questions related to Final Rule requirements, over three quarters (78.3%) of consumers perceived their experiences with HCBS services as consistent with the Final Rule. The question that had the largest "yes" response was related to having a care plan (93.3%, *n*=277). The requirement for which the fewest consumers responded "yes" was receiving day services in the same place (57.0%, *n*=151).

For questions related to satisfaction with HCB services, over 82% of consumers (*n*=260) agreed or strongly agreed that they were satisfied. The highest percentage of consumers agreed that HCBS services are respectful of their culture and heritage (89.2%, n=281) while the lowest percentage agreed that they were able to seek employment and job opportunities (31.4%, *n*=90).

Settings Assessment and Remediation Timeline

Transition Activity	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
Provider self-assessment	1. Develop assessment tools for provider use	KDADS Staff	HCBS Providers	Complete		
	2. Providers completed self-evaluation	HCBS Providers MCOs	HCBS Providers	Complete		
	3. Provider attestation		HCBS Providers	Complete		

	survey					
Onsite assessment	1. Develop an onsite assessment tool.	KDADS Staff	Stakeholder Workgroup	Complete		
	2. Train assessors (KDADS staff and qualified volunteers) to use the onsite assessment tool.	KDADS Staff	HCBS Providers CDDOs Self-Advocates Advocacy Organizations	Complete		
	3. Select a sample of settings onsite assessment.	KDADS	KDADS	Complete		
	4. Complete assessments	KDADS QMS and PIC staff	Trained volunteers who attended training, completed volunteer agreement	Complete		
	5. Review completed assessments and follow up with providers.	KDADS	KDADS	10/1/2016	7/1/2019	Ongoing
Onsite assessment	6. Notify providers of assessment outcome, and whether remediation is needed. All HCBS providers will be contacted by **email** notifying them of their level of compliance with the Rule and next steps. Providers may fall into one of five categories: fully compliant; not yet compliant; requiring heightened scrutiny; did not respond to attestation survey; settings that do not or are unable to come into compliance.	KDADS	KDADS	Preliminary acknowledgement 2/28/2017	7/1/2019	Ongoing
	7. Notify MCOs, ADRCs, CMHCs and CDDOs of providers coming into	KDADS	KDADS MCOs	1/1/2018	4/1/2021	To be developed

	compliance and providers who will not meet the requirements of the Rule.					
	8. Share aggregate compliance data on KDADS website	KDADS	KDADS	3/1/17		In process
Identify total number of persons affected by HCBS Settings rule.	1. Send settings analysis to FISC to pull quantified data.	KDADS	KDADS	1/11/2017	7/1/2019	In process
Additional Assessment Measures	1. As part of the sampling process for the onsite reviews, the Quality and Licensing Program Manager at the HCBS Director will review data from the provider attestation surveys to further determine compliance of HCBS providers found to be deficient.	KDADS	KDADS MCOs	5/1/2017	7/1/2018	In process

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Remediation Process

Reference materials- Appendix C

Providers choosing to remediate

Meetings will be held with each of the provider setting types to assist providers in developing their transition plans to come into compliance with the Rule. Providers making changes for remediation will be invited to participate in a learning collaborative that allows peer-to-peer learning, including sharing information and ideas and receiving information or training that may be beneficial as they consider ways to meet the requirements of the Rule. The state will offer technical assistance to providers during their transition plan process. Additional meetings and individualized assistance will be provided as needed. Provider settings that are not yet compliant with the Rule will submit their transition plan to the State by January of 2021. All transition plans will illustrate how the provider will come into full compliance with the Rule prior to March of 2022, including specific milestones and timelines. The state will require quarterly reports from the provider and will make onsite visits to ensure the provider is meeting the milestones noted in their plan and to evaluate the providers' progress with their transition plan.

Learning Collaborative

Preliminary analysis of provider attestation surveys and as validated by an initial round of on-site visits helped identify the probable formation of four (4) distinct yet affiliated learning collaborative peer-to-peer groups. Facilitated by Wichita State University along with KDADS staff, the intended focus will be: (1) Remediation; (2) Person-Centered Planning Process and Conflict-Free Assessment; (3) Employment; and, (4) Landlord/Tenant Laws. Another separate yet affiliated policy advisory group will engage stakeholders, HCBS provider networks, and KDADS is dialogue surrounding policy and regulatory changes needed to achieve full compliance in Kansas.

Providers unable to comply or choosing not to remediate:

Providers that believe their setting cannot comply or the provider who chooses not to come into compliance shall be required to submit a termination notice to KDADS and the MCOs no later than October 1, 2021 to ensure an appropriate transition of all affected participants prior to the March 2022 compliance date. Such providers shall work collaboratively with MCOs and KDADS to ensure transition of waiver participants at the earliest possible date after the provider has notified the MCO and KDADS of its decision to terminate participation as a waiver provider.

Such providers shall ensure that an individual or guardian receives a minimum of 180 days' notice of its decision to terminate participation as a Waiver provider. Such notice shall be issued through certified mail and inform the individual or guardian of the costs for services for which individual or guardian will be responsible should the individual or guardian choose to continue services from the current provider or to facilitate, with adequate time to convene a care planning team, make an informed choice and a select an alternate provider complaint with the Rule. The plan must provide the individual a minimum of thirty (30) days' notice to make the change.

Transition plans will incorporate feedback from Targeted Case Managers (where applicable), Community Developmental Disability Organizations (CDDOs), the KanCare Ombudsman, the MCO Care Coordinator and State Licensing and or Quality Review staff but must reflect the preferences and needs of each participant affected. Choice of all setting types in compliance with the Rule must be offered to individuals and as required for the waiver type. If the participant or guardian is willing to relocated, such choice shall also include complaint setting types in other parts of the state. The choice of settings provided to the individual must be documented and designate the individual's choice of setting in the person centered service plan.

Attempts for compliance shall be fully exhausted first. Then, if the individual chooses to stay in a non-compliant setting, the MCO will issue a NOA advising the member or guardian/representative that services provided by the non-compliant provider will not be authorized after March, 2019, and will terminate any applicable authorizations with date ranges that exceed March 2019. If the only waiver services that a participant are receiving are being rendered by the noncompliant provider, the State staff, TCM (as applicable) and MCO Care Coordination staff will advise

the participant of the potential impact to ongoing eligibility for the waiver. The noncompliant provider must issue and obtain a fully executed informed consent from the participant or guardian within 90 days of the March, 2019 compliance deadline restating that the provider is no longer eligible to provide the applicable services, that member has the ability to select a compliant provider at any time by calling the MCO, Ombudsman or other State staff, delineating the detailed the costs per service and costs per month applicable to the individual for ongoing services that the member or guardian will be responsible for paying after the March, 2019 deadline, and other information as directed by the State.

A person-centered service plan must be in place when the individual transitions to the new setting. Both the current provider, the new provider, the TCM (if applicable), and the Care Coordinator will work together to assure the person centered service plan is in place prior to the transition. The MCO will provide written transition plans for each affected participant to the State and provide updates on each participant's transition until the transition is completed. Care coordinators will follow up with all affected HCBS waiver recipients within 60 days of the transition to assure the individual is satisfied and has adjusted to the change in setting. State quality and licensing staff will also follow up during transition of the individual.

Remediation Process Timeline

Transition Activity	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
KDADS Develop remediation template for provider use in preparing corrective action plans.	1. Review templates from other states	KDADS	HCBS Providers	6/1/2017	4/1/2018	In development
	2. Obtain stakeholder feedback	KDADS	HCBS Providers	8/1/2017	7/1/2018	In development
	3. Review internally	KDADS	KDHE	9/1/2017	9/1/2018	In development
KDADS develop policy around corrective action planning to assure ongoing compliance with Final Rule.	1. Pull together all resources to devise policy specific to waivers.	KDADS	HCBS Providers MCO CDDO	10/1/2017	1/1/2019	In development
Providers plan and make needed changes for compliance with the final rule	1. Providers provide KDADS their plan to come into compliance with the Final Rule, including timelines.	KDADS	HCBS Providers	1/1/2018	7/1/2019	In development
	2. KDADS provide resources and technical assistance to providers to assist in the remediation process.	KDADS	HCBS Providers	2/1/2018	10/1/2021	In development
	3. Provider and KDADS monitor progress and milestones towards	KDADS	HCBS Providers	2/1/2018	10/1/2021	In development

	compliance.					
Providers not remediating:	1. Provider notifies KDADS and others that they won't or are unable to comply	KDADS	HCBS Providers CDDO MCO	2/1/2018	10/1/2021	In development
	2. Provider develops a plan to help those in service to transition to other settings		HCBS Providers ADRC CMHC CDDO MCO	2/1/2018	10/1/2021	In development
	3. Participants are given at least 30 days' notice that they will need to transition to a new provider/setting.	KDADS	HCBS Providers CDDO MCO	2/1/2018	10/1/2021	In development
	4. MCO and KDADS assure that a Person Centered Service Plan is complete and up to date prior to transition.	KDADS	HCBS Providers MCO	2/1/2018	10/1/2021	In development
	5. KDADS monitors participant satisfaction after transition	KDADS	HCBS Providers	1/1/2019	3/1/2022	In development

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Heightened Scrutiny Process

CMS has identified certain characteristics of settings that they presume are not compliant with the Rule. These settings are required to go through the heightened scrutiny process in order to overcome the presumed non-compliance with the Rule. For additional information on heightened scrutiny requirements please review the CMS document dated June 26, 2015 regarding heightened scrutiny FAQs. This can be viewed at https://www.medicaid.gov/medicaid/hcbs/downloads/home-and-community-based-setting-requirements.pdf. Characteristics of settings that require Heightened Scrutiny include:

Settings located in a building that is a publicly or privately operated facility that provides

- Inpatient institutional treatment;
- Settings on the ground of, or immediately adjacent to, a public institution; or
- Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS;
- Settings that are part of a group of multiple settings, co-located and operationally related such that the co-location and/or cluster serves to

isolate and/or inhibit interaction with the broader community;

- Settings with design, appearance and/or location that appears to be institutional and/or isolating;
- Settings designed to provide people with disabilities multiple types of services and activities on the same site and individuals with disabilities have little to no interaction/experiences outside of the setting, resulting in limited autonomy and/or regimented services;
- Settings where individuals in the setting have limited if any interaction with the broader community;
- Settings that appears to be more isolating than other settings in the same vicinity/neighborhood:
  - The setting is a gated community;
  - The setting has fencing, gates, or other structural items setting it apart from homes/settings in the vicinity;
  - The setting is labeled by signage as a setting for people with disabilities, thus not blending with the broader neighborhood/community;
  - The setting is close to a potentially undesirable location (e.g., dump, factory, across the street from a prison or other institutional setting, etc.) that is isolating and/or inhibits individuals from interacting with the broader community.

Providers with settings presumed not compliant with the HCBS rule will be required to submit documentation to the state outlining how their settings do not have the qualities of an institution and do have the qualities of HCB (Home Community Based) settings. These providers will be notified of the need for an onsite assessment. The onsite setting assessment will be conducted for all settings requiring Heightened Scrutiny. Providers will be notified of the findings of the onsite assessment for Heightened Scrutiny. The state will work with providers on necessary documentation demonstrating that the setting is not institutional but is HCB. Following an onsite assessment and review of the documentation, the State will determine if there is sufficient evidence to request a determination from CMS to validate whether the setting is HCB and presumed compliant.

Settings in Kansas that may require Heightened Scrutiny to be deemed compliant with the Rule could include: Assisted Living Facilities, Residential Health Care, Home Plus, Special Care Units, Sheltered Workshops, Day Programs and Adult Care Homes attached to a Nursing Facility.

Heightened Scrutiny Process Timeline

Transition Activity	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
Assessment of heightened scrutiny settings	1. Identify settings requiring heightened scrutiny	KDADS	HCBS Providers CDDO MCO	10/1/2016	7/1/2019	In process
	2. Complete onsite assessments of settings that requested heightened scrutiny.	KDADS	HCBS assessment volunteers	10/1/2016	12/1/2020	Complete

	3. Complete onsite assessment of each setting	KDADS	HCBS assessment volunteers	7/1/2017	12/2/2020	In development
	4. Compile supporting documentation validating whether the setting meets Final Rule requirements	KDADS	HCBS Provider	1/31/2018	3/1/2021	In development
	5. Notification to providers of outcome of heightened scrutiny.	KDADS	HCBS Provider	3/1/2018	10/1/2021	In development
Final approval of compliant settings	1. Submission of requests to CMS that the setting meets the requirements of the Final Rule.	KDADS	KDADS	3/1/2018	10/1/2021	In development
Transition of Noncompliant settings	1. KDADS notifies the provider and others the setting is not compliant with the Final Rule	KDADS	HCBS Providers CDDO MCO	3/1/2018	10/1/2021	In development
	2. Provider develops a plan to help those in service to transition to other settings	MCOs CDDOs CMHCs	HCBS Providers ADRC CDDO MCO	3/1/2018	10/1/2021	In development
	3. Participants are given at least 180 days' notice that they will need to transition to a new provider/setting.	KDADS	HCBS Providers CDDO MCO	2/1/2018	10/1/2021	In development
	4. MCO and KDADS assure that a Person Centered Service Plan is complete and up to date prior to transition.	KDADS	HCBS Providers MCO	2/1/2018	10/1/2021	In development
	5. KDADS monitors participant satisfaction after transition	KDADS	HCBS Providers	1/1/2019	3/1/2022	In development

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Monitoring Processes

Monitoring DuringTransition

As providers develop their plans for transitioning into compliance, State staff will meet with them and provide technical assistance. The provider

will make their transition plan available to the State with milestone dates.

During the provider transition period, the state requires quarterly reports on progress toward compliance and updates to transition timelines from those not fully compliant. KDADS and the MCOS will effect terminations for those providers that issue notice of termination due to an inability to comply or a desire not to comply with the Rule.

State Quality and Licensing staff will conduct onsite reviews to monitor progress during transition and the state will continue to meet with providers to provide technical assistance as requested by the provider. For providers not meeting timelines, CMS staff will be notified. Trainings will be conducted by the state on the Rule and compliance with the Rule throughout the transition process. For those providers that initiate a remediation/transition plan or determine themselves to be fully compliant, and for which KDADS determines by September 2018, based upon the then current status of compliance, that full compliance with the Rule cannot be achieved by March 2019, KDADS will issue termination notices to such providers and will copy the MCO and other applicable agencies so that terminations can be affected across the system of care.

Ongoing Monitoring

Ongoing Monitoring Process

The state will continue ongoing monitoring of all HCBS providers already fully in compliance and for providers following successful remediation using a multi-tiered approach.

- Before providers can be reimbursed for HCBS services, Managed Care Organizations will review compliance with the Rule when they credential providers.
- Licensing staff for Adult Care Homes and IDD providers will review requirements of the Rule when licensing providers to assure they remain in compliance with the Rule.
  - The IDD licensing staff conducts random onsite visits and targeted visits when there are complaints to assure compliance with the regulations, waiver and the Rule.
  - Adult Care Home surveyors complete onsite visits annually and when there is a complaint to determine compliance with State Statutes, Administrative Regulations, and the Rule.
- Quality Management Specialists currently review a random sample of HCBS waiver providers and individuals receiving services on a quarterly basis. A random statistically valid sample (95/5) of HCBS individuals are selected for review. Reviews consist of onsite consumer interviews and record reviews to determine compliance with waiver and Rule requirements. State quality staff and HCBS program managers meet quarterly to review findings from the quality reviews. Program staff complete remediation if required and review the information to not only provide training if required but also make policy or program changes. Case Managers and MCO Care Coordinators also make onsite visits and will report any concerns to the state.
- Establish a process via the Kansas Medical Assistance Program (KMAP) provider enrollment system for providers to attest and demonstrate

compliance with Final Rule requirements upon KMAP enrollment.

KDADS will publish a final list and maintain a list ongoing of approved and fully compliant providers by waiver for use by the MCOs in credentialing/re-credentialing activities. Providers that have voluntarily terminated participation in any waiver program or have been terminated by KDADS for a failure to comply with the Rule will be ineligible to receive payment for applicable services rendered to a waiver participant prior to or upon the March 2019 compliance date of the Rule. Providers not reflected on the final list published and maintained by KDADS will be ineligible to be re-credentialed by the MCOS and ineligible to receive payment for applicable services rendered to HCBS waiver participants after the full compliance date of the Rule.

Current state regulations address most areas of the Rule as evidence by a regulatory crosswalk that was completed by KDADS. Changes in regulation will be incorporated into new regulations during 2017 and 2018 through the state regulatory process. Onsite visits to licensed providers may result in findings of non-compliance, which would require a corrective action plan. Adult Care Homes receive a statement of deficiencies and required correction for compliance. A deficiency related to health and safety could result in a monetary fine and/or license revocation. During onsite visits, Licensing IDD staff provides a notice of findings and request a corrective action plan. Uncorrected findings can lead to a monetary fine and up to revocation. Any deficiency or finding is followed-up with an onsite visit to validate compliance.

Ongoing Monitoring Timeline

Activity	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
State staff monitor settings as part of ongoing quality assurance and licensing	1. Training for state staff	KDADS	MCOs	3/1/2022	Ongoing	In development
	2. Update any tools as needed	KDADS Learning Collaborative	HCBS Providers MCOs	1/1/2018	3/1/2022	In development
	3. Education to stakeholders about any changes being made	KDADS Learning Collaborative Public Forums	HCBS Providers Self-advocates KDHE	9/1/2021	3/1/2022	In development
Managed Care Organizations will review compliance with the Rule when they credential providers	1. Verify this requirement is clear to the MCOs. Assess need for specific training to be provided by KDADS.	KDADS	MCO	1/1/2019	3/1/2022	In development
	2. Training for MCOs and their staff responsible for ongoing monitoring	KDADS	MCOs	1/1/2019	Ongoing	In development
	3. Monitoring of settings	KDADS	KDADS	1/1/2019	Ongoing	In development

		MCOs	MCOs			
	4. Report findings back to State	KDADS MCOs KDHE	KDADS MCOs KDHE	1/1/2019	Ongoing	In development

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Public Engagement

Reference materials- Appendix D

Public engagement[10] began in June 2014 and is ongoing through the transition to compliance with the Rule.

Opportunities for public engagement in 2014:

Online Provider Self-Assessment Survey	May 20th	June 15th
Public Information Sessions	February	
	July	
	November	
HCB Setting Transition Plan Public Comment Period	June 12	July 12

Opportunities for public engagement in 2015:

February	• Lunch and Learn IDD Provider Calls • Lunch and Learn IDD Consumer Calls • HCBS Provider Forum	Mon/Fri - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month
March	• Lunch and Learn IDD Provider Calls • Lunch and Learn IDD Consumer Calls • HCBS Provider Forum	Mon/Fri - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month
April	• Lunch and Learn IDD Provider Calls • Lunch and Learn IDD Consumer Calls • HCBS Provider Forum • Regional Public HCBS Information Sessions (450+ attendees) • LTC Round Table Forum (200 + attendees)	Mon/Fri - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month April 23rd April 24 – 30th
May	• Lunch and Learn HCBS Provider Calls • Lunch and Learn HCBS Consumer Calls (every other week) • HCBS Provider Forum	Mon - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month

	• Public Notice of HCB Setting Transition Plans	May 1, 2014
June	• Lunch and Learn HCBS Provider Calls • Lunch and Learn HCBS Consumer Calls (every other week) • HCBS Provider Forum • Rule Information posted online – PowerPoint/Audio • Public Comment Public Comment sessions (dates on www.kdads.ks.gov)	Mon - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month June 5th June 16 - 19th
July	• Lunch and Learn HCBS Provider Calls • Lunch and Learn HCBS Consumer Calls (every other week) • HCBS Provider Forum • Summary of Public Comments posted online • Transition Plan submitted to CMS for review and approval	Mon - 11-12 pm Wed - 12 to 1 pm 3rd Tuesday of month July 15th July 31st

These comments are part of the original plan. The state's change in approach to the State Transition Plan includes new public announcements and public feedback that is also included.

Opportunities for public engagement in 2016:

Targeted meetings with Waiver representatives:

As part of the State's plan to enhance stakeholder engagement, representatives from two waivers anticipated to be most impacted from the Rule were invited to participate in targeted meetings to hear their specific concerns. These meetings took place on June 10th, 2016. Representatives from 28 Adult Care Homes and 39 CDDOs attended their respective meetings.

June 10, 2016, HCBS Settings Final Rule and Adult Care Homes session was held in Topeka from 1:00 p.m. – 3:00.

June 10, 2016, HCBS Settings Final Rule CDDO session was held in Topeka from 10:00 a.m. – 12:00 p.m.

In-Person Opportunities for Information & Feedback:

Statewide public comment meetings were held June 14-17, 2016 in four locations across the State (Hays, Topeka, Overland Park, and Wichita) with two sessions at each location: 1:00 p.m. – 3:00 p.m. and 5:30 p.m. – 7:30 p.m.

A total of 268 people attended these public comment meetings; 26 in Hays, 75 in Topeka, 99 in Overland Park, and 68 in Wichita. Time was allowed for attendees to ask clarifying questions about the Rule and give comments and feedback to the State. In addition to being able to provide verbal comments to the State and other attendees, feedback forms were provided to allow written comments as well. The state received 135 individual comments and 41 completed evaluation forms. Attendees liked that the Rule will provide more integration of waiver participants and hope that this will be the actual outcome of changes. Concerns centered on implementation costs, the adequacy (or inadequacy) of reimbursement rates to support meeting the requirements, and whether sheltered workshops or day services can comply with the requirements.

Another round of statewide meetings for public input on the transition plan will be scheduled following onsite assessments.

Updates at InterHab (Association of Developmental Disability Service providers) on the Final Rule June 9, 2016, and August 17, 2016

A presentation was made by the KanCare Ombudsman on July 12, 2016 to the Friends and Family Committee.

Remote/Phone Opportunities for Information & Feedback:

Lunch and Learn Calls by the KanCare Ombudsman office were held on June 1, 2016 and July 13, 2016 addressing the Final Settings Rule.

Informational Calls: KDADS is hosting twice monthly calls for stakeholders to stay updated on the State's planning for the HCBS Final Settings Rule implementation. Calls are held on the first and third Wednesday of each month at 12:00 p.m. and 5:30 p.m. beginning on July 20, 2016 and will continue through the completion of the transition plan. Questions and answers from each call will be posted on the HCBS Settings Final Rule page of the KDADS website (http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers).

Statewide Transition Plan Workgroup:

A stakeholder workgroup of 60 individuals from all provider setting types was formed to assist the state in the Statewide Transition Plan. The group is made up of Self Advocates, Kansas Advocates for Better Care, the Disability Rights Center, Kansas Council for Developmental Disabilities (KCDD), the state ADA coordinator, Independent Living Centers, Assisted Living, Home Plus providers, Individuals receiving services, families of individuals receiving services, participants from the Friends and Family group, Self-Advocate Coalition of Kansas, Ombudsman representatives and representation from all waiver populations. They met August 5, August 23, August 31 and September 15, 2016 in Topeka to

provide recommendations regarding the transition plans based on their knowledge and experience in providing HCBS services.

Four subgroups addressing sheltered workshops, person centered service planning, day programs, and Adult Care Homes with special care units worked on these topics of concern. Each group developed a plan and recommendations to assist the State with the Statewide Transition Plan for the Rule.

Appendix D contains a summary of the recommendations of the workgroup and initial state response, the full report of the Statewide Transition Plan Workgroup recommendations is available on the KDADS website (http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers). In December of 2016, the workgroup reconvened to provide suggested next steps for implementation of some of the workgroup recommendations:

Dementia Workgroup Transition Steps Timeline

Transition Steps – Dementia

Transition Activity With Workgroup Recommendation Reference #	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
1.12. KABC recommends that the state use the planning process to create the next generation of health promoting settings and services which will serve older adults with dementia and meet the requirements of the HCBS final setting rule	1. Conversation with small groups of consumers, providers, MCO & State- how do we keep the HCBS System from collapsing? How do we innovate?	KDADS Program staff	HCBS Providers Self-Advocates Advocacy Organizations STP Workgroup	9/1/2018	10/1/2019	
	2. Cross sector workgroups to have a conversation about and plan for implementation.	KDADS Program staff	HCBS Providers Self-Advocates Advocacy Organizations STP Workgroup	9/1/2018	10/1/2019	

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Transition Steps – Day Services and (3) Non-Integrated Employment Service Settings

Transition Activity With Workgroup Recommendation Reference #	Implementation Steps	State Resources	Stakeholders	*Projected Start	*Projected Completion	Status
2.2. Anyone participating in day services, and their natural supports, should receive annual counseling and training on benefits, other options, and resources available to help them achieve employment goals. 2.3. Individualized Community Integrated Day Services: Recipients have individualized schedules and spend the majority of their day services in the community. 2.4 Facility Based Day Services: Day Services provided in a facility setting only when a person needs time-limited pre-vocational training, and only when such training is not available in community settings. 2.5 Individualized Day Service Plan Due to Individualized Needs or Circumstance: Alternative or individually created Day service based on individualized, ongoing need due to health/behavioral need or operation of a home-based business. 3.4 Service definitions proposed by this subgroup need to be consistent with other programs, rules and definitions used by the state. Terms need to mean the same thing. 3.10 State should adopt the supported employment Waiver Integration Stakeholder Engagement (WISE) 2.0 workgroup recommendations for a new supported employment HCBS program.	1. Study and initiate Benefits Counseling to make this a waiver service (As part of the workgroup listed below).	KDADS, KDHE	Advocates, HCBS providers	2/1/2018	10/1/2021	
	2. KDADS requests NASDDDS TA grant to assist with transition. (Kansas request being one of 15 states with transition assistance from NASDDS in January 2017.)	KDADS.	Advocates, HCBS providers	5/1/2017	9/2017	Complete
	3. KDADS will identify and constitute a special workgroup of listed state resources and stakeholders to: 1. Conduct environmental scan of service delivery system including input from persons served, parents and guardians, and service providers 2. Identify recommended service categories (see original STP Workgroup Document) and rate structure. 3. KDHE finance studies fiscal impact 4. Consider needed policy and regulation changes to support transition activity. 5. Produce plan for review by stakeholders and impact of planned changes on KDHE,	NASDDDS provides technical assistance to guide the process. Medicaid KDHE with financial expertise about current system. Working Healthy Representative. KDADS Commissions. Vocational Rehab.	Steven Hall of Griffen and Hammis (KCDD consultant). MCOs. KU LEADS Center. Federal Dept. of Labor Contractor. Employment Systems Change Coalition. KCDD. Services for dual diagnosis (IDD and BH).	9/1/2018	10/1/2021	

	KDADS, VR, and DCF. Finalize recommended State Plan Amendments (SPA) and/or waiver creation.					
	4. Communication strategies with persons served and providers to include: Preliminary education that system change is coming through public meetings, use existing biweekly phone conferences with KDADS and provider training (beginning with case managers). Build system of communication that can provide updated information.	KDADS and special workgroup representatives.	Self-Advocate Coalition of Kansas. Families Together. CDDOs. Populations from all waivers. MCOs.	9/1/2018	10/1/2021	
2.8. Create a rate structure reflective of a business model that is maintainable for providers and supports the outcomes the state wants.	Subgroup of special workgroup above to explore: Incentives and disincentives to reaching desired outcomes based on pay structure and possibility of "base rate structure" with point value for desired outcomes. Tie health management into the incentives. Create metric to automatically force an increase when outcomes are achieved. Must create a way for providers to report outcomes. Look at other states at how they have incentivized preferred outcomes. Include how to support (incentivize) long-term employment outcomes (not discontinuing payment once a person has obtained a specific level of employment (need for services change over time). Include key players from the employment community (HR, etc.) to address barriers and	Special workgroup subgroup.	Special workgroup subgroup.	9/1/2018	10/1/2021	

	challenges to gaining and sustaining employment. Create ways for other state entities to support these outcomes.					
2.9 Training should be available for providers, including direct care staff, about changes. Establish a training workgroup to: A. Create a model of and plan for state provided training for providers around technical systemic changes which may include: implementation of federal and state policy changes, Waiver amendments, and changes to services, and B. Explore resources to support development of a similar training model around philosophical changes in service delivery, protection to inclusion, use of non-traditional services, community inclusion, and supported decision making, and other topics related to how services are provided	1. Development of training group and education about change in philosophy in 2017 before changes in waivers and policies take place. 2. Create a training schedule with priority content. Target education in youth transitioning into services and shape what they are demanding for services. 3. This is an ongoing process and not cost neutral. Some training entity will be needed. State of Kansas of needs to re-engage CMS to look into how training can be provided through Medicaid Administrative Match or other funding source for innovation and training in order to meet these systems change demand.	KDADS. Appropriate ADA training coordinated by State ADA Coordinator.	Providers. Self Advocates. Direct care staff as role models. Successful parents/guardians. Training providers such as College of Direct Support. MCOs	9/1/2018	10/1/2021	
2.14 Currently, when a provider is successful at achieving employment outcomes, they are penalized; this barrier should be removed.	1. Creation of a supports waiver to provide participants who have achieved employment the necessary level of service to live independently and maintain employment	KDADS	Self-advocates. Persons served/family members. Providers. MCOs.	9/1/2018	10/1/2021	
	2. Develop a workgroup to explore creation of a performance based rate structure to allow providers	KDADS	Self-advocates. Persons served/family members.	1/1/2019	10/1/2021	

	some control and influence on the reimbursement rate they receive to alleviate this barrier.		Providers. MCOs.			
3.9. An overriding goal must be preserving and expanding service capacity in order to conform to the Final Rule. This does not mean simply preserving the status quo. It means preserving and expanding the capacity to empower and serve Kansans with disabilities in the most integrated setting. Doing this will take time, money and immediate attention by Kansas.	1. KDADS work with recently formed CDDO Capacity Group to assess current capacity and needed (expanded) capacity. Develop common measures of capacity to meet new demands related anticipated changes	KDADS.	CDDO Capacity Group.	7/1/2018	10/1/2021	
	2. KDADS work closely with VR, End Dependence, Work Force Development, Employment First Commission, Department of Commerce and others to access capacity of larger systems that support vocational outcomes for targeted populations. KDADS explore vocational services/supports that may need to be provided through nontraditional resources, training programs, or purchase of generic services to support vocational outcomes not provided by traditional service providers. Create incentives for targeted case management to be more creative in how vocational goals are supported.	KDADS. Vocational Rehab. Work Force Development. Employment First Commission. Department of Commerce.	Self-Advocates. MCOs. CDDOs	7/1/2018	10/1/2021	
	3. Related quality assurance measures for all services will need to be developed. Related policies will need to be changed.	KDADS	Self-Advocates. MCOs. CDDOs.	7/1/2018	10/1/2018	

3.12 Kansas public policy needs to be evaluated to ensure it is consistent with the Final Rule toward the goal of community-based, integrated services. As an example, Article 63 envisions facility-based services. Rates and supports will need to be individualized in order to obtain the principles detailed in this report. 3.13 Policy and procedure changes need to ensure that non-integrated employment settings be limited to prevocational supports, be time-limited, goal-oriented, person-centered, and used only when it is truly the most integrated setting. This stated policy to conform to the Final Rule mandate cannot be in name only. Kansas policy and procedures need to contain effective accountability mechanisms in order to ensure these principles are accomplished. Rates and supports will need to be individualized in order to obtain the principles detailed in this report. Kansas also needs are far more robust validation process in order to ensure that these principles are supported and change occurs (see Tennessee's transition plan). 3.14 Kansas public policy and procedure should focus on self-direction for disability services. This has been a cornerstone of Kansas disability policy and has been contained in Kansas law since the late 1980's [K.S.A. 39-7,100]. However, it has not been effectuated. This law focuses on self-direction, increased autonomy and control of funding for persons with disabilities to access their needed services and supports.	1. Article 63 focus on licensed services that changed at that time. What is not in Article 63 that needs to be included for example emergency based services, medication management. This is just one example. Should review all related waiver manual policies (e.g.: Nothing in current regulations instructs a provider to do the employment based supports).	KDADS State ADA Coordinator. Governor's Subcabinet on Disability Policy Subgroup. Legislative Research. KDADS Legal Department; VR; Department of Commerce and Labor.	WSU CEI. Service Providers. Persons Served.	2/2017	2/1/2021	
	2. Constitute a workgroup; review how other states have addressed policies.					
	3. Review Governors Subcabinet report					
	4. Collect and review existing policies.					
	5. Draft policy changes with stakeholder input					
	6. Publish in draft form for review by workgroup and public comment.					
	7. Proceed with KDADS regulatory process.					
	8. Proposed priority policies (broad strokes) ready to educate community and providers by May 2018.					
	9. After CMS signs off on SPA	KDADS		11/2018	2/1/2021	

	and created waivers (October/November 2018) waivers (which serves as the policy) will be available for further education.					
3.16 Recommend the creation of cross-age, cross-disability independent navigation, ombudsman and facilitation supports to help address the complexities of HCBS and related supports and activities, which have gotten more complex with the Final Rule. As an example, the WISE 2.0 subgroup of the services definition group recommended that TERF specialists (Transition, Employment, Resource Facilitation) be established and funded. The WISE 2.0 groups have also recommended navigation and ombudsman services. (See full recommendations report.)	1. This recommendations is currently under review by KDADS.	KDADS		12/2016	Ongoing	

*Projected start and completion dates are best estimates and subject to change. Please check the KDADS website for up to date project status information.

Public Notices:

The current Statewide Transition Plan is available on the KDADS Website: http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers

References/Resources

1. Adult Care Home Regulations: http://www.kdads.ks.gov/commissions/scc
2. IDD Regulations can be found: http://www.kdads.ks.gov/provider-home/home-and-community-based-services-provider-information/intellectual-developmental-disability-provider-information
3. KDADS HCBS Policies: http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-policies
4. KDADS Final Rule Webpage: http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers
5. CMS Final Rule Guidance: https://www.medicaid.gov/medicaid/hcbs/guidance/index.html

Appendix A- Systemic Assessment, Regulation Crosswalk

Return to Systemic Assessment

Kansas
Department for Aging and Disability Services

HCBS Final Rule Cross Walk

Licensed Adult care homes – Assisted Living, Residential Health Care, Home Plus, Adult Day Care:

Data source column identifies the regulatory requirement for licensed care homes that are reviewed during the regular annual survey process and may be reviewed during complaint surveys.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly					
Document Review (policies, procedures, and regulations)					
CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.B.2 Individuals sharing units have a choice of roommates in that setting. 42 CFR 441.301(c).4.vi.B.3 Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	1. Per policy/regulation, is the participant provided the opportunity to reside in their own bedroom or select their roommate(s) and furnish their living arrangement to their preference?	26-39-103 (o) 26-39-103 (h)(2)	The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits unless doing so would infringe upon the rights or health and safety of other residents. The administrator or operator shall ensure that designated staff member informs the resident, the resident's legal representative or authorized family members whenever the designated staff member learns that the resident will have a change in room or roommate assignment.	Partial compliance	Regulation only requires facility to inform of roommate change. Seek regulatory change during 2017/18

Revised 9/14/17

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.D. Individuals are able to have visitors of their choosing at any time.	2. Per policy/regulation, is the participant provided the opportunity for visitors to come at his/her preference without limitations to the specified hours (as long as the health and welfare of the participant is not compromised as identified in the person-centered plan)?	26-39-103 (m)(1) (E,F)	The administrator or operator shall ensure the provision of immediate access to any resident by ... immediate family or other relatives of the resident and others who are visiting with the consent of the resident subject to reasonable restrictions.	Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	3. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?	ALF/RHCF: 28-39-254 (h) (k)(l)	Common use areas: each entrance shall be at ground level and shall be accessible to individuals with disabilities; . . each common use area shall have access from a general corridor without passing through any intervening use areas. The facility shall have a dining room with the capacity to seat all residents. The facility shall have common areas for social and recreational use by residents.	Compliant	ALF/RHCF special care unit may restrict access to areas outside of unit without supervision. This is addressed in PCP. Reviewed during survey process.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. Per policy/regulation, is the participant provided the opportunity to have access to basic household equipment as identified in the person-center plan (i.e., kitchen appliances)?	ALF/RHCF: 28-39-254 (g)(1)(D); (h)(1); (l)	Each assisted living facility shall consist of apartment which contain at least the following:. . .a kitchen area equipped with a sink, a refrigerator, a stove or a microwave and space for storage of utensils and supplies. Assisted living and residential health care facility common use areas: each entrance shall be at found level and shall be accessible to individuals with disabilities. The facility shall have common areas for social and recreational use by residents.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	5. Per policy/regulation, is the participant provided the opportunity to have a legally enforceable agreement/lease for the setting?	26-39-102 (a) (2, 3)	Before admission, the administrator or operator, or the designee shall inform the prospective resident or resident's legal representative in writing of the rates and charges for the adult care home's services and the resident's obligations regarding payment. . .. and. . shall execute with the resident or the resident's legal representative a written agreement that describes in detail the services and good the resident will receive and specifies the obligations that the resident has toward the adult care home;	Partial	Will require regulatory change for written agreement with landlord tenant act protections. Will go through the regulatory process in 2017/2018

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	6. Per policy/regulation, is the participant provided the opportunity to know his/her rights regarding housing and when they could be required to relocate?	26-39-102 (d); (e) (1, 2); (f)	The administrator or operator of each adult care home shall ensure that each resident is permitted to remain in the adult care home and is not transferred or discharged from the adult care home unless one of the following conditions is met: the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the current adult care home; the health or safety of other individuals in the adult care home is endangered; the resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home. Before involuntary transfer or discharge, the administrator or operator shall: notify the resident, the resident's legal representative, and if known, a designated family member of the transfer or discharge and the reasons; and record the reasons for the transfer or discharge in the resident's clinical record.	Not compliant	Currently regulations do not allow for appeal rights. This will be addressed in regulation. This will go through the regulatory process in 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	7. Per policy/regulation, is the participant provided the opportunity for protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?	26-39-102 (g)	The administrator or operator or the designee shall provide a notice of transfer or discharge in writing to the resident or resident's legal representative at least 30 days before the resident is transferred or discharged involuntarily unless one of the following conditions is met: the safety of other individuals in the adult care home would be endangered; the resident's urgent medical needs require an immediate transfer to another health care facility. Each written transfer or discharge notice shall include the following: the reason for the transfer or discharge, the effective date of the transfer or discharge; the address and telephone number of the complaint program . . .where a complaint related to involuntary transfer or discharge can be registered, the address and telephone number of the state long-term care ombudsman and for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.	Not compliant	Complaint can be filed but no appeal right. This to be addressed in regulation. This will go through the regulatory process for change in 2017/2018
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	8. Per policy/regulation, is the participant provided the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?	26-39-103 (a)(b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self- determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	9. Per policy/regulation, is the participant provided the opportunity to access services and support that will help gain access to the larger community (i.e., public transportation)?	26-39-103 (a)(b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self- determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	10. Per policy/regulation, is the participant provided the opportunity to set his/her own schedule for waking, bathing, eating, exercising, activities, etc.?	26-41-202 (a)(b)(d)(f)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the resident's health and safety, the NSA shall include . . the service refused, identification of any potential negative outcomes for the resident if the service is not provided; evidence of provision on education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service is not provided and indication of the acceptance by the resident or the resident's legal representative of the potential risk	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS	11. Per policy/regulation, is the participant provided opportunity to control their own personal resources?	26-39-103 (g)	The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	12. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not accessible to others?	26-39-103 (o)	The administrator or operator shall ensure that each resident if afforded the right to retain and use personal possessions including furnishings and appropriate clothing as space permits	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	13. Per policy/regulation, is the participant provided the opportunity to lock his/her door and maintain private living areas?	28-39-254 (g)(1)(F); (3)(D)	ALF/RHCF: . . apartment includes. . . an entrance door which has only one locking device which releases with operation of the inside door handle. This lock shall be master-keyed from the corridor side.	Partial Compliance	Only those needing access shall have keys, This will be addressed in regulation and PCP. Regulatory process in 2017/2018
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	14. Per policy/regulation, are the participant's right to dignity and privacy is respected?	26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to personal privacy and confidentiality of personal and clinical records; the administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	15. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?	26-41-206 (c)(2) 26-41-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident's family.	Partial compliance	This is expected in the PCP currently in the Negotiated Service Agreement. Training on PCP by the state staff in 2017. Reviewed as part of survey process.
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	16. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?	26-41-206 (c) (2) 26-43-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family.	Partial compliance	This is in the Negotiated Service Agreement and will be added to the PCP. Staff training by the state will occur in 2017 on PCP. Will be part of survey process.
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	17. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?			Not compliant	Not addressed in regulation. Will become part of the PCP. Reviewed during survey process

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	18. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?	26-39-103 (n) 26-38-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to reasonable access to a telephone in a place where calls can be made without being overheard. The administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Facility required to provide phone for private call; no regulation to require provision for text or email. The individual can bring their personal devices for use in the ALF/RHCF
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	19. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?	26-39-103 (j) 26-41-101(k) 26-39-102 (c)	The administrator or operator shall ensure that each resident is afforded the right to voice grievances with respect to treatment or care that was or was not furnished, be free from discrimination or reprisal for voicing grievances and receive prompt efforts by the administrator or operation to resolve and grievances that the resident could have. . Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department for aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. The administrator or operator shall provide a copy of resident rights. . and the grievance policy to each resident or resident's legal representative before the prospective resident signs any admission agreement.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c).4.vi.E The setting is physically accessible to the individual.	20. Per policy/regulation, is the participant provided the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)	ALF/RHCF: 28-39-254 (f) (1); (g)(1)(C, E); 3 (B, C) 26-41-204(a)	Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall be made of hard smooth material, barrier free, and maintained in good repair. ALF/RHCF apartments contain a toilet room which contains a toilet, lavatory, and bathtub or shower accessible to a resident with disabilities, a storage area with a door, a shelf and a hanging rod accessible to the resident	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	21. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?	26-41-202 (a) 26-41-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The administrator or operator shall ensure that a licensed nurse provides or coordinate the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screen and negotiated service agreement.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	22. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?	28-39-254(g) (1)(F); (3)(D)	ALF/RHCF: . . . apartment includes. . . an entrance door which has only one locking device which releases with operation of the inside door handle. This lock shall be master-keyed from the corridor side.	Compliant	Reviewed during survey process.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Document review (policies, procedures, and regulations)

Home Plus Frail Elderly and Physically Disabled					
Document Review (policies, procedures, and regulations)					
CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.B.2 Individuals sharing units have a choice of roommates in that setting. 42 CFR 441.301(c).4.vi.B.3 Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	1. Per policy/regulation, is the participant provided the opportunity to reside in their own bedroom or select their roommate(s) and furnish their living arrangement to their preference?	26-39-103 (o) 26-39-103 (h)(2)	The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits unless doing so would infringe upon the rights or health and safety of other residents. The administrator or operator shall ensure that designated staff member informs the resident, the resident's legal representative or authorized family members whenever the designated staff member learns that the resident will have a change in room or roommate assignment.	Partial	Regulation only requires facility to inform of roommate change. This to be addressed in regulation in 2017/18
42 CFR 441.301(c).4.vi.D. Individuals are able to have visitors of their choosing at any time.	2. Per policy/regulation, is the participant provided the opportunity for visitors to come at his/her preference without limitations to the specified hours (as long as the health and welfare of the participant is not compromised as identified in the person-centered plan)?	26-39-103 (m) (1) (E, F)	The administrator or operator shall ensure the provision of immediate access to any resident by ... immediate family or other relatives of the resident and others who are visiting with the consent of the resident subject to reasonable restrictions.	Compliant	Reviewed during survey process.

Revised 9/14/17

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	3. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?	28-39-437 (d) (e)(2)(A); (3)(C,D)	Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall be made of hard, smooth material. . and be barrier free. General building interior: there shall be at least one toilet room with a lavatory and a shower or tub for each five individuals living in the facility; each facility shall provide living, dining and activity areas that. . have sufficient space to accommodate all resident activities and are located in an area or areas accessible to all residents	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. Per policy/regulation, is the participant provided the opportunity to have access to basic household equipment as identified in the person- center plan (i.e., kitchen appliances)?	28-39-437 (e)	General building interior: . . . each facility shall provide living, dining and activity areas that. . have sufficient space to accommodate all resident activities and are located in an area or areas accessible to all residents	Compliant	Does not specifically address access to basic household equipment. Will be incorporated into PCP based on safety of individual.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	5. Per policy/regulation, is the participant provided the opportunity to have a legally enforceable agreement/lease for the setting?	26-39-102 (a) (2, 3)	Before admission, the administrator or operator, or the designee shall inform the prospective resident or resident's legal representative in writing of the rates and charges for the adult care home's services and the resident's obligations regarding payment. . .. and. . shall execute with the resident or the resident's legal representative a written agreement that describes in detail the services and good the resident will receive and specified s the obligations that the resident has toward the adult care home;	Partial	Written agreement will require landlord tenant act protections. This to be addressed in regulation during 2017/18..

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	6. Per policy/regulation, is the participant provided the opportunity to know his/her rights regarding housing and when they could be required to relocate?	26-39-102 (d); (e) (1, 2); (f)	The administrator or operator of each adult care home shall ensure that each resident is permitted to remain in the adult care home and is not transferred or discharged from the adult care home unless one of the following conditions is met: the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the current adult care home; the safety of other individuals in the adult care home is endangered; the health of other individuals in the adult care home is endangered; the resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home; the adult care home ceases to operate. Before the resident is transferred or discharged involuntarily, the administrator or operator or the designee shall: notify the resident, the resident's legal representative, and if known, a designated family member of the transfer or discharge and the reasons; and record the reasons for the transfer or discharge in the resident's clinical record. .	Partial	Currently appeal rights not in regulation. This will be addressed in regulation during 2017/18.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	7. Per policy/regulation, is the participant provided the opportunity for protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?	26-39-102 (g)	The administrator or operator or the designee shall provide a notice of transfer or discharge in writing to the resident or resident's legal representative at least 30 days before the resident is transferred or discharged involuntarily unless one of the following conditions is met: the safety of other individuals in the adult care home would be endangered; the resident's urgent medical needs require an immediate transfer to another health care facility. Each written transfer or discharge notice shall include the following: the reason for the transfer or discharge, the effective date of the transfer or discharge; the address and telephone number of the complaint program . . .where a complaint related to involuntary transfer or discharge can be registered, the address and telephone number of the state long-term care ombudsman and for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.	Partial	Complaint can be filed but no appeal right. This will be addressed in regulation during 2017/2018.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	8. Per policy/regulation, is the participant provided the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?	26-39-103 (a) (b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen.	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	9. Per policy/regulation, is the participant provided the opportunity to access services and support that will help gain access to the larger community (i.e., public transportation)?	26-39-103 (a)(b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	10. Per policy/regulation, is the participant provided the opportunity to set his/her own schedule for waking, bathing, eating, exercising, activities, etc.?	26-42-202 (a)(b)(d)(f)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the resident's health and safety, the NSA shall include . . the service refused, identification of any potential negative outcomes for the resident if the service is not provided; evidence of provision on education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service is not provided and indication of the acceptance by the resident or the resident's legal representative of the	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS	11. Per policy/regulation, is the participant provided opportunity to control their own personal resources?	26-39-103 (g)	The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	12. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not	26-39-103 (o)	The administrator or operator shall ensure that each resident if afforded the right to retain and use personal possessions including furnishings and appropriate clothing as space permits	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	13. Per policy/regulation, is the participant provided the opportunity to lock his/her door and maintain private living areas?	26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to personal privacy	Compliant	Regulations do not specifically address locks on bedroom doors. This will be addressed in PCP. These units are for dementia or special care units. Will be reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	14. Per policy/regulation, are the participant's right to dignity and privacy is respected?	26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to personal privacy and confidentiality of personal and clinical records; the administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	15. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?	26-42-206 (c)(2) 26-42-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident's family.	Compliant	Is in the NSA and will be in PCP, Training by the state on PCP to be completed in 2017.
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	16. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?	26-42-206 (c) (2) 26-42-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident's family.	Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	17. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?			Partial	Not addressed in regulation. Will be expected in the PCP

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	18. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?	26-39-103 (n) 26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to reasonable access to a telephone in a place where calls can be made without being overheard. The administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Facility required to provide phone for private call; no regulation to require provision for text or email. The individual may bring their device for use.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	19. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?	26-39-103 (j) 26-42-101(k) 26-39-102 (c)	The administrator or operator shall ensure that each resident is afforded the right to voice grievances with respect to treatment or care that was or was not furnished, be free from discrimination or reprisal for voicing grievances and receive prompt efforts by the administrator or operation to resolve and grievances that the resident could have. . Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department for aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. The administrator or operator shall provide a copy of resident rights. . and the grievance policy to each resident or resident's legal representative before the prospective resident signs any admission agreement.	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c).4.vi.E The setting is physically accessible to the individual.	20. Per policy/regulation, is the participant provided the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)	28-39-437 (e)(2)(B); (3) 26-42-204(a)	Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall be made of hard smooth material, barrier free, and maintained in good repair. The facility shall provide grab bars or equivalent assistive devices at each toilet, tub, or shower if required for resident safety. Each facility shall provide living, dining and activity areas . . .located in an area accessible to all residents The administrator or operator shall ensure that a licensed nurse provides or coordinate the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screen and negotiated service agreement.	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	21. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?	26-42-202 (a) 26-42-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The administrator or operator shall ensure that a licensed nurse provides or coordinate the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screen and negotiated service agreement.	Compliant	Reviewed during survey process.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	22. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?	26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to personal privacy. .	Compliant	Regulation does not address locks on bedroom doors. This is addressed in the individualized PCP.

Home Plus Frail Elderly and Physically Disabled
Document review (policies, procedures, and regulations)

Adult Day Care					
Document Review (policies, procedures, and regulations)					
CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	1. Per policy/regulation, is the participant provided the opportunity to reside in their own bedroom or select their roommate(s) and furnish their living arrangement to their preference?	26-39-103 (o)	The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions, including furnishings and appropriate clothing as space permits unless doing so would infringe upon the rights or health and safety of other residents.	Compliant	Reviewed during survey
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	2. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?	28-39-289 (e)(1); (f)(1)(C)	Each exterior pathway or access to the facility's common use areas and entrance and exit ways shall be made of hard, smooth material and be free of barriers. Each facility shall have sufficient common-use space to accommodate the full range of program activities and services; each facility shall have social, recreational and dining areas that provide for the activity needs of residents.	Compliant	Reviewed during survey

Revised 9/14/17

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	3. Per policy/regulation, is the participant provided the opportunity to have access to basic household equipment as identified in the person-center plan (i.e., kitchen appliances)?	28-39-289 (f) (1)(C)	Each facility shall have sufficient common-use space to accommodate the full range of program activities and services; each facility shall have social, recreational and dining areas that provide for the activity needs of residents.	Compliant	Does not specifically address access to basic household equipment. This will be covered in the PCP.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. Per policy/regulation, is the participant provided the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?	26-39-103 (a)(b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen.	Compliant	Reviewed during survey.

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	5. Per policy/regulation, is the participant provided the opportunity to access services and support that will help gain access to the larger community (i.e., public transportation)?	26-39-103 (a)(b)	Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident has the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the adult care home. The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's right as a resident of an adult care home and as a citizen	Compliant	Reviewed during survey

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	6. Per policy/regulation, is the participant provided the opportunity to set his/her own schedule for waking, bathing, eating, exercising, activities, etc.?	26-43-202 (a)(b)(d)(f)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. If a resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's medical care provider, or the case manager believes is necessary for the residents health and safety, the NSA shall include . . the service refused, identification of any potential negative outcomes for the resident if the service is not provided; evidence of provision on education to the resident or the resident's legal representative of the potential risk of any negative outcomes if the service is not provided and indication of the acceptance by the resident or the resident's legal representative of the potential risk	Compliant	Reviewed during survey process.

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS	7. Per policy/regulation, is the participant provided opportunity to control their own personal resources?	26-39-103 (g)	The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.	Compliant	Reviewed during survey process.
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	8. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not accessible to others?	26-39-103 (o)	The administrator or operator shall ensure that each resident if afforded the right to retain and use personal possessions including furnishings and appropriate clothing as space permits	Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and	9. Per policy/regulation, is the participant provided the opportunity to lock his/her door and maintain private living areas?			Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	10. Per policy/regulation, are the participant's right to dignity and privacy is respected?	26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to personal privacy and confidentiality of personal and clinical records; the administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Reviewed during survey process.

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	11. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?	26-43-206 (c)(2) 26-43-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident's family.	Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	12. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?	26-43-206 (c) 26-43-202 (a)	A method shall be established to incorporate input by resident in the selection of food to be served and scheduling of meal service. The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family.	Compliant	Reviewed during survey process
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	13. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?			Partial	Not addressed in regulation. To be addressed in the PCP Training on PCP to be conducted by the state in 2017

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	14. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?	26-39-103 (n) 26-39-103 (i)	The administrator or operator shall ensure that each resident is afforded the right to reasonable access to a telephone in a place where calls can be made without being overheard. the administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communication, personal care, visits, and meetings of family and resident groups.	Compliant	Facility required to provide phone for private call; no regulation to require provision for text or email. The individual may bring their own device for use. Reviewed during survey process
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	15. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?	26-39-103 (j) 26-43-101(k) 26-39-102 ©	The administrator or operator shall ensure that each resident is afforded the right to voice grievances with respect to treatment or care that was or was not furnished, be free from discrimination or reprisal for voicing grievances and receive prompt efforts by the administrator or operation to resolve and grievances that the resident could have. . Each administrator or operator shall ensure the posting of the names, addresses, and telephone numbers of the Kansas department for aging and the office of the long-term care ombudsman with information that these agencies can be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. The administrator or operator shall provide a copy of resident rights. . and the grievance policy to each resident or resident's legal representative before the prospective resident signs any admission agreement.	Compliant	Reviewed during survey.

Adult Day Care
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	16. Per policy/regulation, is the participant provided the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)	28-39-289(e) (1, 3)	Each exterior pathway or access to the facility's common use areas and entrance and exit ways shall be made of hard, smooth materials and be free of barriers; each resident room shall be accessible to residents with disabilities.	X	
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	17. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?	26-43-202 (a) 26-43-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The administrator or operator shall ensure that a licensed nurse provides or coordinate the provision of necessary health care services that meet the needs of each resident and are in accordance with the functional capacity screen and negotiated service agreement.	Compliant	Reviewed during survey
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	18. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?				Not applicable. Not overnight

Adult Day Care
Document review (policies, procedures, and regulations)

Assisted Living and Residential Health Care Facilities					
Person Centered Service Plan or Process					
CMS Assurances	Review	Data Source	Regulation	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	1. PCSP provides opportunity for the participant to get a choice of service provider	26-41-202 (j)	If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018. Current regulations require a Negotiated Service Agreement that includes many elements of the PCP

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	2. PCSP provides opportunity for the participant to be educate on how to request a change in provider	26-41-202 (a) (d) (j)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
This assurance is part of the PCSP requirement of the Final Rule, not the settings requirements, the review question is: 42 CFR 441.301(c).4.vi.D Individuals are able to have visitors of their choosing at any time.	3. PCSP provides opportunity for the participant to express individuals that are important to the participant and may visit the residential settings	26-41-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. PCSP provides opportunity for the participant to explore option for employment in the community	26-41-101 (d)(1)(3)(6)	Each administrator or operator shall ensure development and implementation of policies and procedures that incorporate principles of individuality, autonomy, dignity, choice, privacy. . the recognition of each resident's rights, responsibilities, needs and preferences; the development and maintenance of social ties for each resident by providing opportunity for meaningful interaction and involvement within the facility and the community, and the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
This assurance is part of the PCSP requirement of the Final Rule, not the settings requirements, the review question is: 42 CFR 441.301(c).4.ii The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	5. PCSP provides opportunity to reflect participant's needs and preferences	26-41-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	6. PCSP provides opportunity to reflect the participant's preferences related to food and eating arrangements	26-41-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c).4.vi.E The setting is physically accessible to the individual.	7. PCSP provides opportunity to reflect the additional support needs of the participant (i.e., grab bars, wheelchair ramps, etc.)	26-41-202 (a) (d) 26-41-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. The administrator or operator in each facility shall ensure that a licensed nurse provides or coordinates the provision of necessary health care services that meet the needs of each resident.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Assisted Living Facilities and Residential Health Care Facilities Physically Disabled and Frail Elderly
Person Centered Service Plan or Process

Home Plus Frail Elderly and Physically Disabled					
Person Centered Service Plan or Process					
CMS Assurances	Review	Data Source	Regulation	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	1. PCSP provides opportunity for the participant to get a choice of service provider	26-42-202 (j)	If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services.	Not currently PCP. Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	2. PCSP provides opportunity for the participant to be educate on how to request a change in provider	26-42-202 (a) (d) (j)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, if requested by the resident or the resident's legal representative. If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Home Plus Frail Elderly and Physically Disabled
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
This assurance is part of the PCSP requirement of the Final Rule, not the settings requirements, the review question is: 42 CFR 441.301(c).4.vi.D Individuals are able to have visitors of their choosing at any time.	3. PCSP provides opportunity for the participant to express individuals that are important to the participant and may visit the residential settings	26-42-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. PCSP provides opportunity for the participant to explore option for employment in the community	26-42-101 (d)(1)(3)(6)	Each administrator or operator shall ensure development and implementation of policies and procedures that incorporate principles of individuality, autonomy, dignity, choice, privacy. . the recognition of each resident's rights, responsibilities, needs and preferences; the development and maintenance of social ties for each resident by providing opportunity for meaningful interaction and involvement within the facility and the community, and the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Home Plus Frail Elderly and Physically Disabled
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.ii The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	5. PCSP provides opportunity to reflect participant's needs and preferences	26-42-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Home Plus Frail Elderly and Physically Disabled
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	6. PCSP provides opportunity to reflect the participant's preferences related to food and eating arrangements	26-42-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Non compliant	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Home Plus Frail Elderly and Physically Disabled
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c).4.vi.E The setting is physically accessible to the individual.	7. PCSP provides opportunity to reflect the additional support needs of the participant (i.e., grab bars, wheelchair ramps, etc.)	26-42-202 (a) (d) 26-42-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. The administrator or operator in each facility shall ensure that a licensed nurse provides or coordinates the provision of necessary health care services that meet the needs of each resident.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Home Plus Frail Elderly and Physically Disabled
Person Centered Service Plan or Process

Adult Day Care

Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	1. PCSP provides opportunity for the participant to get a choice of service provider	26-43-202 (j)	If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.v Facilitates individual choice regarding services and supports, and who provides them	2. PCSP provides opportunity for the participant to be educated on how to request a change in provider	26-43-202 (a) (d) (j)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative. If the resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall provide the resident, the resident's legal representative, and the case manager with a list of providers available to provide needed services, and assist the resident, if requested in contacting outside resources for services.	Partial Compliance	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Adult Day Care
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	3. PCSP provides opportunity for the participant to explore option for employment in the community	26-43-101 (d)(1)(3)(6)	Each administrator or operator shall ensure development and implementation of policies and procedures that incorporate principles of individuality, autonomy, dignity, choice, privacy. . the recognition of each resident's rights, responsibilities, needs and preferences; the development and maintenance of social ties for each resident by providing opportunity for meaningful interaction and involvement within the facility and the community, and the maintenance of each resident's lifestyle if there are not adverse effects on the rights and safety of other residents.	Partial compliance	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.
This assurance is part of the PCSP requirement of the Final Rule, not the settings requirements, the review question is: 42 CFR 441.301(c).4.ii The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	4. PCSP provides opportunity to reflect participant's needs and preferences	26-43-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial Compliance	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Adult Day Care
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	5. PCSP provides opportunity to reflect the participant's preferences related to food and eating arrangements	26-43-202 (a) (d)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial Compliance	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Adult Day Care
Person Centered Service Plan or Process

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	6. PCSP provides opportunity to reflect the additional support needs of the participant (i.e., grab bars, wheelchair ramps, etc.)	26-43-202 (a) (d) 26-43-204 (a)	The administrator or operator. . shall ensure the development of a written negotiated service agreement (NSA) for each resident based on the resident's functional capacity screening, service needs and preferences, in collaboration with the resident or the resident's legal representative, the case manager and if agreed to by the resident, the resident' family. The NSA shall provide . . a description of the services the resident will receive, and identification of the provider of each service; . . .shall promoted dignity, privacy, choice, individuality and autonomy of the resident. Each administrator or operator shall ensure the review and if necessary, revision of each NSA. . at least once every 365 days, following any significant change in condition, . . .if requested by the resident or the resident's legal representative.	Partial	All NSA will incorporate all elements required in the PCP. This will be addressed in regulation through the regulatory process 2017/2018.

Adult Day Care
Person Centered Service Plan or Process

IDD Facilities					
Document review (policies, procedures, and regulations)					
CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comment
42 CFR 441.301(c).4.ii The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c).4.vi.B.2 Individuals sharing units have a choice of roommates in that setting. 42 CFR 441.301(c).4.vi.B.3 Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	1. Per policy/regulation, is the participant provided the opportunity to reside in their own bedroom or select their roommate(s) and furnish their living arrangement to their preference?	30-63-21	(a)(2) Contain a description of the person's preferred lifestyle… (A) In what type of setting the person wants to live (B) with whom the person wants to live	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.vi.D. Individuals are able to have visitors of their choosing at any time.	2. Per policy/regulation, is the participant provided the opportunity for visitors to come at his/her preference without limitations to the specified hours (as long as the health and welfare of the participant is not compromised as identified in the person-centered plan)?	30-63-21 30-63-22	(a)(2)(D) with whom the person wants to socialize (b)(6) being able to associate and communicate publicly or privately with any person or group of people of the person's choice.	Compliant	Reviewed during licensing and onsite visits

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	3. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?	30-63-21 30-63-22	(a)(2) Contain a description of the person's preferred lifestyle… (A) In what type of setting the person wants to live (B) with whom the person wants to live. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (3)being able to receive, purchase, have, and use the person's personal property	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	4. Per policy/regulation, is the participant provided the opportunity to have access to basic household equipment as identified in the person-center plan (i.e., kitchen appliances)?	30-63-21 30-63-22	(a)(3) List and describe the necessary activities, training, materials, equipment, assistive technology, and services that are needed to assist the person to achieve the person's preferred lifestyle. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (3)being able to receive, purchase, have, and use the person's personal property	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	5. Per policy/regulation, is the participant provided the opportunity to have a legally enforceable agreement/lease for the setting?	30-63-10 30-63-22 30-63-30	(a)(C)The person directing and controlling the services owns, rents, or leases the whole or a portion of the home in which services are provided. b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (11) receiving due process. (a) A provider shall maintain each site in which services are provided to any person and that is owned , leased, or made available by contract to be operated by a provider, any employee or board member of a provider, or any entity owned or controlled by a provider, a provider's employee or a provider's board member.…	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	6. Per policy/regulation, is the participant provided the opportunity to know his/her rights regarding housing and when they could be required to relocate?	30-63-10 30-63-22	(a)(C)The person directing and controlling the services owns, rents, or leases the whole or a portion of the home in which services are provided. (D) If any person providing services also lives in the home in which services are provided, there is a written agreement specifying that the person receiving services will not be required to move from the home if there is any change in who provides services, and that any person chosen to provide services will be allowed full and reasonable access to the home in order to provide services. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (11) receiving due process.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.vi.A The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	7. Per policy/regulation, is the participant provided the opportunity for protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?	30-63-10 30-63-22	a)(C)The person directing and controlling the services owns, rents, or leases the whole or a portion of the home in which services are provided. b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (11) receiving due process.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	8. Per policy/regulation, is the participant provides the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?	30-63-21 30-63-22	(a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (C) what work or other valued activity the person wants to do, (E) in what social, leisure, religious, or other activities the person wants to participate. (4) Describe how opportunities of choice will be provided… (a)(2)(D) with whom the person wants to socialize (b)(6) Being able to associate and communicate publicly or privately with any person or group of people of the person's choice.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	9. Per policy/regulation, is the participant provides the opportunity to access services and support that will help gain access to the larger community (i.e., public transportation)?	30-63-21 30-63-22	a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (C) what work or other valued activity the person wants to do, (E) in what social, leisure, religious, or other activities the person wants to participate. (4) Describe how opportunities of choice will be provided… (a)(2)(D) with whom the person wants to socialize (b)(6) Being able to associate and communicate publicly or privately with any person or group of people of the person's choice.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	10. Per policy/regulation, is the participant provided the opportunity to set his/her own schedule for waking, bathing, eating, exercising, activities, etc.?	30-63-21	(a) The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle... (4) describe how opportunities of choice will be provided.(6)prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle. (7) contribute to the continuous movement of the person towards the achievement of the person's preferred lifestyle. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities... These rights shall include the following: (4) actively and meaningfully making decisions affecting the person's life.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS	11. Per policy/regulation, is the participant provided opportunity to control their own personal resources?	30-63-22	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities... These rights shall include the following: (2) having control over the person's own financial resources. (4) actively and meaningfully making decisions affecting the person's life.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	12. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not accessible to others?	30-63-22	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities... These rights shall include the following: (3) being able to receive, purchase, have, and use the person's personal property (5) having privacy (10) being treated with dignity and respect.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	13. Per policy/regulation, is the participant provided the opportunity to lock his/her door and maintain private living areas?	30-63-22	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities... These rights shall include the following: (5) having privacy (10) being treated with dignity and respect.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	14. Per policy/regulation, are the participant's right to dignity and privacy is respected?	30-63-22	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities... These rights shall include the following: (5) having privacy (10) being treated with dignity and respect.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	15. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?	30-63-21 30-63-25	a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle… (4) describe how opportunities of choice will be provided.(6)prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle. (7) contribute to the continuous movement of the person towards the achievement of the person's preferred lifestyle. (a)… the provider shall assist each person served in obtaining daily access to a well-balanced, nutritious diet consistent with the provisions of K.A.R. 30-63-21 regarding opportunities of choice.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c).4.vi.C Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	16. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?	30-63-21 30-63-25	a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle… (4) describe how opportunities of choice will be provided.(6)prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle. (7) contribute to the continuous movement of the person towards the achievement of the person's preferred lifestyle. (a)… the provider shall assist each person served in obtaining daily access to a well-balanced, nutritious diet consistent with the provisions of K.A.R. 30-63-21 regarding opportunities of choice.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	17. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?	30-63-21 30-63-25	a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle… (4) describe how opportunities of choice will be provided.(6)prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle. (7) contribute to the continuous movement of the person towards the achievement of the person's preferred lifestyle. (a)…the provider shall assist each person served in obtaining daily access to a well-balanced, nutritious diet consistent with the provisions of K.A.R. 30-63-21 regarding opportunities of choice.	Compliant	This expected to be included in the PCP. Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iv Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	18. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?	30-63-22	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (5) having privacy (6) being able to associate and communicate publicly or privately with any person or group of people of the person's choice. (10) being treated with dignity and respect.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	19. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?	30-63-22 30-63-28	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… (b) each agency shall exercise any authority that the agent has for the purpose of the prevention of abuse, neglect or exploitation of each person served.	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.i The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c).4.vi.E The setting is physically accessible to the individual.	20. Per policy/regulation, is the participant provides the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)	30-63-30	(a)A provider shall maintain each site in which services are provided to any person… (10) have appropriate assistive devices and any necessary structural modifications so that the facility meets the needs of person with physical disabilities.	Compliant	Reviewed during licensing and onsite visits
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	21. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?	30-63-21 30-63-22	a)The provider shall prepare a written person-centered support plan for each person serviced that shall meet these requirements: (2) contain a description of the person's preferred lifestyle… (4) describe how opportunities of choice will be provided.(6)prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle. (7) contribute to the continuous movement of the person towards the achievement of the person's preferred lifestyle b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… (4) actively and meaningfully making decisions affecting the person's life.	Compliant	This is expected in the PCP. Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

CMS Assurances	Review	Data Source	Regulation(s)	Compliance	Remediation/Comments
42 CFR 441.301(c).4.iii Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 42 CFR 441.301(c).4.vi.B.1 Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	22. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?	30-63-22 30-63-30	b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities… These rights shall include the following: (5) having privacy (10) being treated with dignity and respect. (a)A provider shall maintain each site in which services are provided to any person… (11) be sufficiently sized to meet the living space needs of the person or persons residing there…(C) sleeping (D) bathing, toileting, and hand washing	Compliant	Reviewed during licensing and onsite visits

IDD Facilities
Document review (policies, procedures, and regulations)

Return to Systemic Assessment

Appendix B - Settings Assessment

Return to Settings Assessment Section

B.1 Provider Attestation Survey, 2015

Assessment of HCBS Settings

Q1 The Center for Medicare and Medicaid Services, known as CMS, has made changes to its requirements for home and community based services. The new final rule, effective March 17, 2014, requires states to evaluate its HCBS settings to meet the new rule's definition. The new Final Rule affects all HCBS settings (residential and nonresidential) that are controlled, owned and operated by providers in which individuals receive home and community based services through the Autism, Frail Elderly, Intellectual and Developmental Disabilities, Physical Disability, SED, Traumatic Brain Injury, and Technology Assisted Programs. To ensure compliance with the new rules, KDADS is requesting all providers who own, operate and control settings to complete one (1) survey for every setting type that they own, operate and control. The setting types (listed below) will be assessed and the information gathered through this survey will be used to develop and update the Transition Plan. Please answer the questions with the type of activities that are "typical" of the setting type. Comments can be added to the end of the survey if you would like to provide additional information and pose questions for future follow up. The survey is designed so that it must be completed for each setting type individually (i.e., if you own. operate or control more than one setting type, you must take the survey for each one). Once you complete the survey, you can start over and complete a different survey for a different setting type. Questions related to the survey and transition plan can be sent to HCBS-KS@kdads.ks.gov. Questions regarding technical issues with the survey can be directed to Dr. Tara Gregory, Director of Research and Evaluation at WSU Center for Community Support and Research, at tara.gregory@wichita.edu. IF YOU HAVE MULTIPLE TYPES OF FACILITIES, PLEASE COMPLETE THIS SURVEY FOR EACH ONE. If you do not complete a survey for each one, it may impact continued HCBS funding. Please complete all surveys by Friday, May 30 at noon.

Q48 Please provide contact information for the person completing this survey:

Name (1)
Telephone number (2)
E-mail address (3)

Q2 Please provide the full name of your organization.

Q3 Please specify the type of facility:

- ❍ Nursing facility (1)
- ❍ Nursing facility for mental health (8)
- ❍ Intermediate care facility for individuals with developmental disabilities (9)
- ❍ Private Psychiatric Hospital (PPH) (10)
- ❍ Psychiatric Residential Treatment Facility (PRTF) (11)
- ❍ Substance Use Disorder (SUD) Treatment Facility (12)
- ❍ Residential care facility for persons with mental illness (13)
- ❍ Adult family home for persons with mental illness (14)
- ❍ Foster family home (16)
- ❍ Group home (17)
- ❍ Residential center (18)
- ❍ Maternity home (19)
- ❍ Day care facility (20)
- ❍ Assisted living facility (21)
- ❍ Residential health care facility (22)
- ❍ Home plus facility (23)
- ❍ Boarding care home (24)
- ❍ Adult day care facility (25)
- ❍ Day services for adults with intellectual and developmental disabilities (26)
- ❍ Residential services for adults with intellectual and developmental disabilities (27)
- ❍ Shared Living/Host Homes/Extended Family Teaching Homes (29)
- ❍ Foster Home/Adult Foster Home/Children's Residential/Respite Care (30)
- ❍ Community Mental Health Center (31)

Q40 Please indicate the following for the facility/setting you selected above:

- ❍ Serves children only (1)
- ❍ Serves adults only (2)
- ❍ Serves children and adults (3)

Q39 For the facility/setting you selected above, please provide the following information about the number of residents/clients:

Total number of residents/clients in the facility/setting listed above: (1)
Number of HCBS residents/clients in the facility/setting listed above: (2)

Q4 Is the HCBS setting you specified above (under type of facility) located on the same campus as a nursing facility, Intermediate Care Facility for individuals with intellectual disabilities, or other private or public institutions?

- ❍ Yes (9)
- ❍ No (10)

If No Is Selected, Then Skip To Do you offer Autism services in the H...

Q46 Please choose the statement that's most accurate for your setting:

- ❍ HCBS setting is not physically connected to the nursing home. (5)
- ❍ HCBS setting is connected through a covered walk or breezeway. (6)
- ❍ HCBS setting is directly attached to the nursing home but has its own entrance, dining, living, and recreation areas. (7)
- ❍ HCBS setting is directly attached and shares entrance, dining, living and recreation areas with the nursing home. (8)

Q5 Do you offer Autism services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To Do you offer Frail Elderly services i...

Q6 Please choose all that apply for the services you provide for Autism

- ❑ Consultative Clinical and Therapeutic Services (Autism Specialist) (1)
- ❑ Interpersonal Communication Therapy (2)
- ❑ Intensive Individual Supports (3)
- ❑ Parent Support & Training (4)
- ❑ Family Adjustment Counseling (5)
- ❑ Respite Services (6)
- ❑ Interpersonal Communications Therapy (7)

Q7 Do you offer Frail Elderly services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To Do you offer Intellectual/Development...

Q8 Please choose all that apply for the services you provide for Frail Elderly

- ❑ Adult Day Care (1)
- ❑ Assisted Technology (2)
- ❑ Attendant Care Services (3)
- ❑ Comprehensive Support (4)
- ❑ Financial Management Service (5)
- ❑ Medication Reminder (6)
- ❑ Nursing (7)
- ❑ Evaluation Visit (8)
- ❑ Oral Health (9)
- ❑ Personal Emergency Response (10)
- ❑ Sleep Cycle Support (11)
- ❑ Wellness Monitoring (12)

Q9 Do you offer Intellectual/Developmental Disability services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To Do you offer Physical Disability serv...

Q10 Please choose all that apply for the services you provide for Intellectual/Developmental Disability

- ❑ Assisted Services (1)
- ❑ Day Services (2)
- ❑ Financial Management Service (3)
- ❑ Medical Alert Rental (4)
- ❑ Personal Assistant Services (5)
- ❑ Residential Supports (6)
- ❑ Sleep Cycle Support (7)
- ❑ Support Employment (8)
- ❑ Supportive Home Care (9)
- ❑ Wellness Monitoring (10)

Q11 Do you offer Physical Disability services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To Do you offer SED services in the HCBS...

Q12 Please choose all that apply for the services you provide for Physical Disability

- ❑ Personal Services (1)
- ❑ Assisted Services (2)
- ❑ Sleep Cycle Support (3)
- ❑ Personal Emergency Response Systems (PERS) (4)
- ❑ Financial Management Services (FMS) (5)
- ❑ Home Delivered Meals (6)
- ❑ Medication Reminder (Call, Dispenser, Installation) (7)

Q41 Do you offer SED services in the HCBS setting you specified?

- ❍ Yes (9)
- ❍ No (10)

If No Is Selected, Then Skip To Do you offer Technology Assisted serv...

Q42 Please choose all that apply for the services you provide for SED

- ❍ Parent Support and Training (4)
- ❍ Independent Living/Skills Building (5)
- ❍ Short Term Respite Care (6)
- ❍ Wraparound Facilitation (7)
- ❍ Professional Resource Family Care (8)
- ❍ Attendant Care (9)

Q13 Do you offer Technology Assisted services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To Do you offer Traumatic Brain Injury s...

Q14 Please choose all that apply for the services you provide for Technology Assisted

- ❑ Financial Management Service (1)
- ❑ Health Maintenance Monitoring (2)
- ❑ Home Modifications (3)
- ❑ Intermittent Intensive Medical Care Services (4)
- ❑ Long Term Community Care Attendant (5)
- ❑ Medical Respite (6)
- ❑ Specialized Medical Care (7)

Q15 Do you offer Traumatic Brain Injury services in the HCBS setting you specified?

- ❍ Yes (1)
- ❍ No (2)

If No Is Selected, Then Skip To The following characteristics are ind...

Q16 Please choose all that apply for the services you provide for Traumatic Brain Injury

- ❑ Assisted Services (1)
- ❑ Financial Management Services (2)
- ❑ Home Delivered Meals (3)
- ❑ Medication Reminder Call/Dispenser/Installation (4)
- ❑ Personal Services (5)
- ❑ Personal Emergency Response/Installation (6)
- ❑ Rehabilitation Therapies (7)
- ❑ Sleep Cycle Support (8)
- ❑ Transitional Living Skills (9)

Q17 The following characteristics are indicators of compliance with CMS home and community-based settings requirements. Based on the question asked and your knowledge of your setting (selected above), please indicate to the best of your understanding what extent your organization TYPICALLY meets the expectations for each of the indicators under the major headings below. "Typically" means "in most situations excluding unique cases."

Q18 The setting was selected by the individual

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual given choice of available options regarding where to live/receive services (1)	❍	❍	❍	❍
Individual given opportunities to visit other settings (2)	❍	❍	❍	❍
The setting reflects the individual's needs and preferences (3)	❍	❍	❍	❍
Documentation of selection is maintained by provider and readily available for review (4)	❍	❍	❍	❍

Q19 Individual participates in unscheduled/scheduled community in same manner as individuals not receiving HCBS

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual regularly accesses the community (1)	❍	❍	❍	❍
Individual is able to describe how the individual accesses the community (2)	❍	❍	❍	❍
Provider documents individual's choice of activity (3)	❍	❍	❍	❍
Individual is aware of/has access to materials to know of activities occurring outside the setting (4)	❍	❍	❍	❍
Individual attends religious services, shops, eats with family, etc, in community, as chooses (5)	❍	❍	❍	❍
Individual can come and go as s/he pleases (6)	❍	❍	❍	❍
Individual talks/expresses information about activities occurring outside of setting (7)	❍	❍	❍	❍

Q20 Individual has his/her own bedroom or shares a room with roommate of choice

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual given a choice of roommate (1)	❍	❍	❍	❍
Individual talks about his/her roommate(s) in a positive manner (2)	❍	❍	❍	❍
Individual expresses a desire to remain in a room with his/her roommate (3)	❍	❍	❍	❍
Married couples able to share a room by choice (4)	❍	❍	❍	❍
Individual knows how s/he can request a roommate change (5)	❍	❍	❍	❍

Q21 Individual chooses/controls a schedule that meets his/her wishes (in person-centered plan)

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual knows s/he is not required to follow a schedule for waking, activities, eating, etc. (1)	❍	❍	❍	❍
Individual's schedule varies from others in the same setting (2)	❍	❍	❍	❍
Individual has access to such things as a television, radio, and leisure activities that interest him/her and cans/he schedule such activities at his/her convenience (3)	❍	❍	❍	❍

Q22 Individual controls his/her personal resources

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual has a check or savings account or other means to control his/her funds (1)	❍	❍	❍	❍
Individual has access to his/her funds (2)	❍	❍	❍	❍
Individual knows that s/he is not required to sign over his/her paycheck to provider (3)	❍	❍	❍	❍

Q23 Individual chooses with whom to eat or to each alone

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual is not required to sit at an assigned seat in a dining area (1)	❍	❍	❍	❍
Individual converses/communicates with others during meal time (2)	❍	❍	❍	❍
Individual can eat privately if s/he chooses to do so (3)	❍	❍	❍	❍
Individual chooses what time to eat and what food s/he wants to each (4)	❍	❍	❍	❍

Q24 Individual choices are incorporated into the services and supports received

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual is asked about his/her needs and preference (1)	❍	❍	❍	❍
Individual is aware of how to make a service request (2)	❍	❍	❍	❍
Individual expresses satisfaction with services being received (3)	❍	❍	❍	❍
Requests for services and supports are documented and accommodated (not ignored/denied) (4)	❍	❍	❍	❍
Individual's choice is facilitated in manner that leaves individual empowered to make decisions (5)	❍	❍	❍	❍

Q25 Individual chooses from whom to receive services and supports

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual can identify other providers who render the services s/he receives (1)	❍	❍	❍	❍
Individual expresses satisfaction with provider selected or s/he asked to discuss a change (2)	❍	❍	❍	❍
Individual knows how and to whom to make a request for a new provider (3)	❍	❍	❍	❍

Q26 Individual is free from coercion

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Information for filing a complaint is posted in obvious location and understandable formats (1)	❍	❍	❍	❍
Individual is comfortable discussing concerns with provider (2)	❍	❍	❍	❍
Individual knows the person to contact or the process to make an anonymous complaint (3)	❍	❍	❍	❍
Individual can file an anonymous complaint (4)	❍	❍	❍	❍
Individuals in the setting have different haircuts/hairstyles and hair color (5)	❍	❍	❍	❍

Q19 Individual has active role in development and update of the individual person-centered plan/Integrated Service plan

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual/chosen representative(s) know how to schedule PCSP meeting (1)	❍	❍	❍	❍
Individual can explain the process to develop and update his/her plan (2)	❍	❍	❍	❍
Individual was present at the last planning meeting (3)	❍	❍	❍	❍
Planning meeting occurs at a time and place convenient for the individual to attend (4)	❍	❍	❍	❍

Q27 The setting does not isolate individuals from individuals not receiving Medicaid HCBS in broader community

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
HCBS Individuals do not live/receive services separate from non-HCBS individuals in same setting (1)	❍	❍	❍	❍
Setting in the community is among other private residences, retail businesses (2)	❍	❍	❍	❍
Community traffic pattern consistent around the setting (i.e. individuals do not avoid setting) (3)	❍	❍	❍	❍
Individuals greet/acknowledge individual receiving services when they encounter them (4)	❍	❍	❍	❍
Visitors are present/allowed/welcomed at the location (5)	❍	❍	❍	❍
Visitors are not restricted to specified visiting hours or visiting hours are posted at the location (6)	❍	❍	❍	❍
There is evidence that visitors have been present at regular frequencies (7)	❍	❍	❍	❍
Visitors are not restricted to visitor's meeting area/prevented from visiting in person's room (8)	❍	❍	❍	❍

Q28 State laws, regulations, licensing requirements, or facility protocols or practices do not limit individuals' choices

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Provider's policies and procedures do not limit individual's access to food (1)	❍	❍	❍	❍
Provider does not limit visiting for individuals unless required by state regulations (2)	❍	❍	❍	❍
Individuals are not prohibited from engaging in legal activities (3)	❍	❍	❍	❍
Any limitations to visiting hours are documented and approved by the individual (4)	❍	❍	❍	❍

Q29 Setting is an environment that supports individual comfort, independence and preferences

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individual has informal (written/oral) communication in a language the individual understands (1)	❍	❍	❍	❍
Assistance is provided in private, as appropriate, when needed (2)	❍	❍	❍	❍
Individuals have full access to typical facilities in home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas (3)	❍	❍	❍	❍

Q30 Individual has unrestricted access in the setting

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
There are no barriers preventing individuals' entrance to or exit from certain areas of setting (1)	❍	❍	❍	❍
Provider facilitates access for HCBS client to integrated activities such as pool, gym, etc. that are used by others (2)	❍	❍	❍	❍
Setting is physically accessible (no obstructions such limiting individuals' mobility in the setting) (3)	❍	❍	❍	❍
Environmental adaptations such as a stair lift or elevator are available to ameliorate the obstruction (4)	❍	❍	❍	❍

Q31 Individuals have full access to the community

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individuals can come and go at will (1)	❍	❍	❍	❍
Individuals are moving freely inside/outside the setting instead of sitting by the front door (2)	❍	❍	❍	❍
There is no curfew or other requirement for a scheduled return to a setting (3)	❍	❍	❍	❍
Individuals know how to use/have access to public transportation (buses/taxes nearby) (4)	❍	❍	❍	❍
Bus and public transportation schedules/telephone numbers are posted in convenient location (5)	❍	❍	❍	❍
Facility provides training in the use of public transportation (6)	❍	❍	❍	❍
If public transportation is limited, other resources are provided to access broader community (7)	❍	❍	❍	❍
Setting has an accessible van available to transport individuals to appointments, shopping, etc. (8)	❍	❍	❍	❍

Q32 Individual’s right to dignity and privacy is respected

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Health information about individuals is kept private and is not published or publically available (1)	❍	❍	❍	❍
Schedules of individuals for PT, OT, medications, restricted diet, etc, are not posted publically (2)	❍	❍	❍	❍
Individuals who need assistance with grooming are groomed as they desire (3)	❍	❍	❍	❍
Individuals are clean, well groomed with nails trimmed and clean (4)	❍	❍	❍	❍
Individuals who need assistance are dressed in their own clothes (not wearing PJs, robes all day) (5)	❍	❍	❍	❍
Individuals are dressed in clean clothes appropriate to time, day, weather, preferences (6)	❍	❍	❍	❍

Q33 Staff communicate with individuals in a dignified manner

	Completely meets expectation (1)	Partially meets expectation (2)	Doesn't meet expectation (3)	Not applicable (4)
Individuals greet and chat/interact with staff (1)	❍	❍	❍	❍
Staff converse with individuals while providing assistance and during regular course of day (2)	❍	❍	❍	❍
Staff do not talk to other staff about individuals as if they are not present or in earshot of others (3)	❍	❍	❍	❍
Staff address individuals in preferred manner (do not routinely using “hon”, “sweetie”, etc) (4)	❍	❍	❍	❍

Q34 Please provide any additional information you feel would be helpful to KDADS in understanding your HCBS settings and ability to comply with requirements.

Q35 If you need to complete another survey for a different type of facility, please use the same link to start over. You may take this survey as many times as needed. Again, it is ESSENTIAL that you fill out a separate survey for each type of facility your organization includes.

Return to Provider Surveys

B.2 Provider Attestation Survey, 2016

2016- HCBS Provider Self Assessment and Attestation

Q1 Kansas Home and Community Based Settings (HCBS) Transition Provider Self Assessment and Attestation Survey

Q2 The Center for Medicare and Medicaid Services, known as CMS, has made changes to its requirements for home and community based services. The new final rule, effective March 17, 2014, requires states to evaluate their HCBS settings to meet the new rule's definition. The new Final Rule affects all HCBS settings (residential and nonresidential) that are controlled, owned and operated by providers in which individuals receive home and community based services through the Autism, Frail Elderly, Intellectual and Developmental Disabilities, Physical Disability, SED, Traumatic Brain Injury, and Technology Assisted Programs. To ensure compliance with the new rules, KDADS is requesting all providers who own, operate and control settings to complete one (1) self-assessment/attestation survey for every setting type that they own, operate and control. The information gathered through this survey will assist KDADS to assess existing systems for compliance with the new final rule and determine the next steps for the onsite assessment plan. Please provide a summary of your organization's self-evaluation of compliance with the final rule. Additional comments can be added to the end of the survey if you would like to provide additional information and pose questions for future consideration during the onsite assessment process. The survey is designed so that it must be completed for each setting type individually (i.e., if you own. operate or control more than one setting type, you must take the survey for each one). You may use the same link to take the survey multiple times - once for each setting. HCBS settings' failure to complete the self-assessment/attestation survey by May 27, 2016 will be advanced to the first round of onsite, in-person assessment of compliance by KDADS staff. These settings will receive notification from KDADS of their failure to report their self-assessments of compliance with the final rule and will be given direction for the next steps of the HCBS Settings Compliance process. Questions related to the survey and transition plan can be sent to HCBS-KS@kdads.ks.gov. IF YOU HAVE MULTIPLE TYPES OF SETTINGS RECEIVING HCBS FUNDING, PLEASE COMPLETE ONE SURVEY FOR EACH TYPE OF SETTING, BUT ONLY ONE SURVEY FOR ALL LOCATIONS OF THAT SETTING TYPE. For example, you might receive funding for SETTING 1 and SETTING 2, with 5 SETTING 1 locations and 7 SETTING 2 locations. You would then fill out the survey twice, once regarding all locations of SETTING 1, and once regarding all locations of SETTING 2. KDADS encourages all HCBS settings to complete a self-assessment/attestation by May 27, 2016 in order to ensure settings providing HCBS services in Kansas can be determined to be compliant with the final rule. Questions regarding technical issues with the survey can be directed to Dr. Tara Gregory, Director of the Wichita State University Center for Applied Research and Evaluation, at tara.gregory@wichita.edu.

Q3 Provider Information

Q4 Name of Organization

Q5 Name of person submitting assessment

Q6 Title

Q7 Phone

Q8 Email

Q30 I attest my organization controls, owns, or operates the following setting and all of the following answers are in regard to this type of setting:

- ❍ Licensed Adult Care Home (1)
- ❍ Institution for mental disease (2)
- ❍ Hospital (3)
- ❍ Intermediate Care Facilites for Individuals with Intellectual Disabilities (4)

Q31 Please select the type of facility:

- ❍ Nursing facility (1)
- ❍ Nursing facility for mental health (2)
- ❍ Psychiatric Residential Treatment Facility (PRTF) (3)
- ❍ Intermediate care facility for individuals with developmental disabilities (4)
- ❍ Private Psychiatric Hospital (PPH) (5)
- ❍ Substance Use Disorder (SUD) Treatment Facility (6)
- ❍ Residential care facility for persons with mental illness (7)
- ❍ Foster family home (8)
- ❍ Group home (9)
- ❍ Residential center (10)
- ❍ Maternity home (11)
- ❍ Day care facility (12)
- ❍ Assisted living facility (13)
- ❍ Residential health care facility (14)
- ❍ Home plus facility (15)
- ❍ Boarding care home (16)
- ❍ Adult day care facility (17)
- ❍ Day services for adults with intellectual and developmental disabilities (18)
- ❍ Residential services for adults with intellectual and developmental disabilities (19)
- ❍ Shared Living/Host Homes/Extended Family Teaching Homes (20)
- ❍ Foster Home/Adult Foster Home/Children's Residential/Respite Care (21)
- ❍ Community Mental Health Center (22)
- ❍ Adult family home for persons with mental illness (23)

Q32 When applicable provide Medicaid ID #:

Q33 When applicable provide NPI #:

Q9 Demographic Information for this Setting Type

Q10 # of Individuals receiving services in this setting type (total # of consumers served – regardless of funding source)

Q11 # of individuals receiving HCBS services in this setting type (# of HCBS consumers served)

Q12 Enter the following information about the locations of this setting type.

# of setting locations (1)
Address of first location (2)
Address of second location (if applicable) (3)
Address of third location (if applicable) (4)

Q16 Please use this space to enter any addresses for additional settings.

Q17 Average # of individuals served in an individual setting:

Q18 Fewest # of individuals served in this setting type

Q19 Highest # of individuals served in this setting type

Q20 This organization serves the following home and community based services for the following population (check all that apply):

- ❑ Autism (1)
- ❑ Frail Elderly (2)
- ❑ Intellectual/ Developmental Disability (3)
- ❑ Physical Disability (8)
- ❑ Serious Emotional Disturbance (4)
- ❑ Technology Assisted (5)
- ❑ Traumatic Brain Injury (6)

Q21 The following best describes my organization's capacity:

- ❍ 3 people or fewer (1)
- ❍ 4 to 8 people (2)
- ❍ 9 people or more (3)

Q22 Settings that ARE Home and Community-Based must be integrated in and support full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. Home and Community Based Settings Must have the following characteristics: (please check all boxes that apply)

- ❑ Chosen by the individual from among setting options including non-disability specific settings (as well as an independent setting) and an option for a private unit in a residential setting. -Choice must be identified/included in the person-centered service plan -Choice must be based on the individual's needs, preferences, and, for residential settings, resources available for room and board. (1)
- ❑ Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. (2)
- ❑ Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. (3)
- ❑ Facilitates individual choice regarding services and supports, and who provides them. (4)

Q23 For provider owned and controlled settings to be considered home and community-based settings, it must have these additional characteristics (please check all boxes that apply)

- ❑ The residential unit or location must be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services -The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. -If landlord tenant laws do not apply, the State must ensure that a lease,

residency agreement or other form of written agreement for each HCBS participant that provides protections that address eviction processes and appeals comparable to those provided under the landlord tenant law. (1)

- ❑ Each individual has privacy in their sleeping or living unit: -Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. -Individuals sharing units have a choice of roommates in that setting. -Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. (2)
- ❑ Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. (3)
- ❑ Individuals are able to have visitors of their choosing at at any time (4)
- ❑ The setting is physically accessible to the individual (5)

Q24 Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- ❍ The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability. (1)
- ❍ The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them. (2)
- ❍ Not applicable to this setting (3)

Q25 Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

- ❍ Setting is designed to provide disabled individuals with multiple types of services and activities on-site, including housing, day services, medical, behavioral/therapeutic services, or social and recreational activities. (1)
- ❍ People have limited, if any, interaction with the broader community. (2)
- ❍ Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid Institutional settings (e.g. restraints and seclusion) (3)
- ❍ Not applicable to this setting (4)

Q26 Settings that are NOT Home and Community-Based include a nursing facility; an institution for mental disease; an intermediate care facility for individuals with intellectual disabilities; a hospital; or any other locations that have qualities of an institutional setting.

Q27 Settings that are Presumed to have the Qualities of an Institution:

- ❍ Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient intuitional treatment. (1)
- ❍ Any setting that is located in a building on the grounds of, or immediately adjacent to a public institution; or (2)
- ❍ Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. (3)
- ❍ Not Applicable to this setting (4)

Q28 For Settings that currently do not meet HCBS characteristics (as identified in this section), but may be able to or believe the setting will comply with the Rule, the provider may request heightened scrutiny for determination of compliance and submission of evidence of HCBS.

- ❍ Yes, Heightened Scrutiny is requested for this setting (1)
- ❍ No, Heightened Scrutiny is not requested for this setting (2)

Q29 For settings that serve individuals who are receiving HCBS, the setting should have a person-centered service plan, and the following requirements must be documented in a person-centered service plan (such as a negotiated settlement agreement, person-centered support plan, individual behavior support plan, etc.):

- ❑ Identifies a specific and individualized assessed need. (1)
- ❑ Documents the positive interventions and supports used prior to any modifications to the person-centered service plan. (2)
- ❑ Documents less intrusive method that attempted to meet the need but didn't. (3)
- ❑ Includes a clear description of the condition that is directly proportionate to the specific assessed need (4)
- ❑ Includes regular collection and review of data to measure the ongoing effectiveness of the modification. (5)
- ❑ Includes established time limits for periodic reviews to determine if the modification is still necessary or can be terminated. (6)
- ❑ Includes the informed consent of the individual. (7)
- ❑ Includes assurances that interventions/supports cause no harm to the person. (8)

Q34 I attest the following best describes one or more types of settings in my organization:

- ❍ A setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, Institution for mental disease (1)
- ❍ A setting located in a building on the grounds of, or immediately adjacent to, a public institution Intermediate Care Facilities for Individuals with Intellectual Disabilities (2)
- ❍ A setting that is limited to individuals receiving Medicaid HCBS services and is not part of the broader community of individuals not receiving Medicaid HCBS (3)
- ❍ A setting that is designed specifically for individuals with disabilities or a certain type of disability (4)
- ❍ A setting that primarily or exclusively serves people with disabilities and on-site staff provides many services to them (5)

Q35 I attest the following best describes the characteristic of my organization. The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social recreational activities.

- ❍ Yes (1)
- ❍ No (2)
- ❍ Partially, explain (3) _____

Q36 I attest the following best describes the characteristic of my organization.

- ❍ This setting DOES use/authorize interventions/restrictions that may be viewed as interventions used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion). (1)
- ❍ This setting DOES NOT use/authorize interventions/restrictions that may be viewed as interventions used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion). (2)

Q37 I attest the setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q38 I attest the setting optimizes individual initiative, autonomy, and independence in making life choices.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q39 I attest the setting facilitates individual choice regarding services and supports, and who provides them.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q40 I attest the setting provides opportunities to seek employment and work in competitive integrated settings.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q41 I attest the setting is integrated and supports access to the greater community.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q42 I attest the setting provides opportunities to engage in community life.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q43 I attest the setting provides opportunities to control personal resources.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q44 I attest the setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q45 I attest the setting is selected by the individual from among options including non-disability specific settings and a private unit in a residential setting.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q46 I attest if provider-owned or controlled, the setting provides a specific unit/dwelling that is owned, rented, or occupied under a legally enforceable agreement.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q47 If provider-owned or controlled, the setting provides the same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q48 I attest if the setting is provider-owned or controlled and the tenant laws do not apply, the state ensures that a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q49 I attest if provider-owned or controlled, the setting provides that each individual has privacy in their sleeping or living unit.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q50 I attest if provider-owned or controlled, the setting provides units with lockable entrance doors, with appropriate staff having keys to doors as needed.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q51 If provider-owned or controlled, the setting provides individuals who are sharing units with a choice of roommates.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q52 I attest if provider-owned or controlled, the setting provides individuals with the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q53 I attest if provider-owned or controlled, the setting provides individuals with the freedom and support to control their schedules and have access to food any time.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q54 I attest if provider-owned or controlled, the setting allows individuals to have visitors at any time.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q55 I attest if provider-owned or controlled, the setting is physically accessible to the individual.

- ❍ Fully comply (1)
- ❍ Partially comply, explain (2) _____
- ❍ Do not comply (3)
- ❍ Not applicable (4)

Q56 Based on the HCBS Final Rule, provide a short summary of your organization's assessment of compliance with the final rule:

Q57 Attestation

Q58 Name of Provider:

Q59 Name of the individual who completed Assessment:

Q60 Date of Assessment:

Q61 The person who completed the survey must initial on the line under each statement.

Q62 I completed the attached Assessment on the date specified above.

Q63 I had an opportunity to explain any difficulties or work on any problems that I related to using a computer or electronic device prior to completing the Assessment electronically.

Q64 I certify that I carefully read the Assessment and understood what was being asked of me before I provided answers.

Q65 I reviewed my answers before finishing the Assessment to ensure that I answered all questions.

Q66 All answers provided within the Assessment are accurate and truthful to the best of my knowledge.

Q67 I understand that, in the future, I may be asked to complete an in-person interview.

Q68 Only initial this question if you are not the provider. I am not the provider, however I certify that I was granted permission by the provider to complete this Assessment on his/her behalf prior to the Assessment being completed.

Q69 You must place your signature and date on the line below this next statement before submitting this form. I certify, under penalty of perjury, that all statements made on this page are accurate and truthful. I further certify that I understood all statements on this page before placing my initials next to the statements.

Signature (1)
Date: (2)

Q70 If you need to complete another survey for a different type of setting, please use the same link to start over. You may take this survey as many times as needed. Again, it is ESSENTIAL that you fill out a separate survey for each type of setting your organization controls, owns or operates. Be sure to click the >> button at the lower right corner of this page to submit this survey and you will be redirected to the KDADS website. Thank you.

Return to Provider Surveys

B.3 Onsite Assessment Process

The On-Site Assessment Process

Summary for Onsite Assessment Teams

Who will be assessed?

A list of settings for onsite assessment will be comprised of:

- Settings where an onsite assessment is requested by the provider,
- Onsite assessment is required for heightened scrutiny, and
- A validation sample of providers who attested to being compliant.

Who will do the assessments?

Assessments will be completed by teams of 2-3 assessors. Ideally each team will include one KDADS Staff, one self-advocate, and one HCBS provider, composition may vary based on the availability of volunteers. Whenever possible teams will be located in the same geographic area and assess settings in their geographic area.

Qualified volunteers not assigned to a team may be used as alternates where needed.

Whenever possible, volunteer assessors will complete settings for Waivers different from the one(s) they directly work with. Where this is not possible, at minimum assessors (aside from KDADS staff) will not assess sites in their service area or they are in direct competition with.

How do we know who we're assessing?

- KDADS will notify each team of the setting(s) they will assess by email. This email will include the provider name, contact information, addresses associated with the setting, and setting type.
- KDADS Staff will notify the provider that they were selected for validation and the name/contact information for the KDADS staff assigned to complete the assessment.

How is the assessment scheduled?

- The assigned team will be responsible for scheduling the onsite assessment.
- If a team member is not available to participate, an alternate may be used. KDADS staff will decide what alternate to use.
- If you aren't able to participate in an assessment, please let the State Staff on your team know as soon as you can!
- The KDADS staff assigned to the team will take the lead in scheduling and organizing the onsite assessment and communicating with the other team members and notifying the provider of the date and time the team plan to complete the assessment. If there is more than one address associated with the setting, the KDADS Staff will also let the provider know what location they will be reviewing.
    - A standard notification email will be developed for KDADS Staff to use for this notification, it will include what information the team needs to see so that this information is readily available at the time of the onsite assessment.

Return to Onsite Assessment

☐Onsite Review
☐Participant Interview
☐Document Review

HCBS Final Rule Onsite Assessment

Date: _____

Assessor Name: _____
Assessor Organization (?): _____

Provider Name: _____
Service Address: _____

HCBS Population:
☐Autism ☐Frail Elderly (FE) ☐Intellectual or Developmental Disability (IDD) ☐Physical Disability (PD)
☐Technology Assisted (TA) ☐Traumatic Brain Injury (TBI) ☐Serious Emotional Disturbance (SED)
(check all that apply)

Setting Type: ☐Residential ☐Non-Residential

- Residential: participant's own home, family home, or provider owned and operated setting in which the consumer resides.
- Non-Residential: a setting separate from the participant's private residence or other residential living arrangement.

Document Review (policies, procedures, and regulations)				
CMS Assurances	Review	Data Source- in development	Determination	Notes/Comment
Setting optimizes individual initiative, autonomy, and independent in making life choices; Participant has his/her own bedroom or shares a room with a roommate of choice	1. Per policy/regulation, is the participant provided the opportunity to reside in their own bedroom or select their roommate(s) and furnish their living arrangement to their preference?		☐Yes ☐No	This is the preferred format for the remaining question.
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader	2. Per policy/regulation, is the participant provided the opportunity for visitors to come at		☐Yes ☐No	

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community	his/her preference without limitations to the specified hours (as long as the health and welfare of the participant is not compromised as identified in the person-centered plan)?			
Participant has unrestricted access in the setting	3. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?		☐Yes ☐No	
Setting supports participant comfort, independence, and preferences	4. Per policy/regulation, is the participant provided the opportunity to have access to basic household equipment as identified in the person-center plan (i.e., kitchen appliances)?		☐Yes ☐No	
Participant has a legally enforceable agreement for the unit or dwelling where the participants resides	5. Per policy/regulation, is the participant provided the opportunity to have a legally enforceable agreement/lease for the setting?		☐Yes ☐No	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	6. Per policy/regulation, is the participant provided the opportunity to know his/her rights regarding housing and when they could be required to relocate?			
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	7. Per policy/regulation, is the participant provided the opportunity for protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?		☐Yes ☐No	
Participants have full access to the	8. Per policy/regulation, is the		☐Yes ☐No	

community; Setting support participation in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside the setting	participant provides the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?			
Participants have full access to the community; Setting support participation in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside the setting	9. Per policy/regulation, is the participant provides the opportunity to access services and support that will help gain access to the larger community (i.e., public transportation)?		☐Yes ☐No	
Participant chooses and controls a schedule that meets his/her wishes in accordance with a person-centered plan	10. Per policy/regulation, is the participant provided the opportunity to set his/her own schedule for waking, bathing, eating, exercising, activities, etc.?		☐Yes ☐No	
Participant controls his/her personal resources	11. Per policy/regulation, is the participant provided opportunity to control their own personal resources?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	12. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not accessible to others?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	13. Per policy/regulation, is the participant provided the opportunity to lock his/her door and maintain private living areas?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	14. Per policy/regulation, are the participant's right to dignity and		☐Yes ☐No	

	privacy is respected?			
Participant chooses when and what to eat	15. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?		☐Yes ☐No	
Participant chooses when and what to eat	16. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?		☐Yes ☐No	
Participant chooses with whom to eat or to eat alone	17. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?		☐Yes ☐No	
Participant has access to make private telephone calls/text/email at the participant's preference and convenience	18. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?		☐Yes ☐No	
Participants are free from coercion	19. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?		☐Yes ☐No	
Setting meets the needs of the participants who require supports and is physically accessible to the participants	20. Per policy/regulation, is the participant provides the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	21. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?		☐Yes ☐No	
Participants has privacy in their sleeping space and toileting facility	22. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?		☐Yes ☐No	

Person-Centered Service Process or Plan				
CMS Assurances	Review	Data Source	Determination	Notes/Comment
Setting was selected by the participant	1. PCSP provides opportunity for the participant to get a choice in available options regarding where to live/receive services.		☐Yes ☐No	
Participant chooses from whom they receive services and supports	2. PCSP provides opportunity for the participant to get a choice of service provider		☐Yes ☐No	
Participant chooses from whom they receive services and supports	3. PCSP provides opportunity for the participant to be educate on how to request a change in provider		☐Yes ☐No	
Participant, or representative, has an active role in the development and update of the person-centered plan	4. PCSP provides opportunity for the participant to express individuals that are important to the participant and may visit the residential settings		☐Yes ☐No	
Participant is employed or active in the community outside of the setting	5. PCSP provides opportunity for the participant to explore option for employment in the community		☐Yes ☐No	
Plan supports participant's comfort, independence, and preferences; Participant/representative has an active role in the development and update of the person-centered plan	6. PCSP provides opportunity to reflect participant's needs and preferences		☐Yes ☐No	
Plan optimizes participant's comfort, independence, and preferences; Plan documents participant's choice of roommate	7. PCSP provides opportunity for the participant to request a change of roommate		☐Yes ☐No	
Plan documents participant's control over his/her resources	8. PCSP providers opportunity to document if the participant has a payee to handle financial tasks		☐Yes ☐No	
Participant chooses when and what to eat; Participant chooses with whom to eat or to eat alone	9. PCSP provides opportunity to reflect the participant's preferences related to food and eating arrangements		☐Yes ☐No	

Plan documents the needs of the participant who require supports and ensures the setting is physically accessible to the participants	10. PCSP provides opportunity to reflect the additional support needs of the participant (i.e., grab bars, wheelchair ramps, etc.)		☐Yes ☐No	

Consumer Interview

CMS Assurances	Requirement	Data Source	Observation	Notes/Comment
Individual chooses from whom they receive services and supports	1. Were you given the choice of several service providers?		☐Yes ☐No	
Setting was selected by the participant	2. Did you select to reside in your current setting?		☐Yes ☐No	
Participant choices are incorporated into the services and supports received; Participant chooses from whom they receive services and supports	3. Are you satisfied with the services you are receiving?		☐Yes ☐No	
Participant, or representative, has an active role in the development and update of the person-centered plan	4. Did you or a representative participate in the person-centered service plan process?		☐Yes ☐No	
Setting and plan meet the needs of the participant who require supports and is physically accessible to the participant	5. If needed, do you have access to additional supports such as wheelchair ramps, grab bars, etc.?		☐Yes ☐No	
Participant chooses from whom they receive services and supports	6. Do you know how to request a different provider if you are not satisfied with your services?		☐Yes ☐No	
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader community	7. Can you have people come and visit you in your home?		☐Yes ☐No	
Setting supports participant comfort, independence, and preferences	8. Can people come and visit you at any time?		☐Yes ☐No	
Participants furnish and decorate their sleeping and/or living units in the way that suits them	9. Were you able to decorate your room the way you wanted?		☐Yes ☐No	
Participant has his/her own bedroom	10. Did you get the option to		☐Yes ☐No	

or shares a room with a roommate of choice	request your own bedroom or choose your roommate?			
	11. Do you know how to request a change in room/roommate?		☐Yes ☐No	
Participant has unrestricted access in the setting	12. Can you go into any area of the building?		☐Yes ☐No	
Participant has unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services	13. Do you go shopping for your clothes, food, personal items, etc.?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences	14. Do you get to pick where you shop for the items?		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	15. If needed, do you get help completing tasks to be appropriately clothed?		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	16. If needed, do you get assistance with cleaning your clothes?		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	17. Do you get to select the clothes you wear each day?		☐Yes ☐No	
Participant is employed or active in the community outside the setting	18. Are you employed? a. Do you work in the community?		☐Yes ☐No	
Participant has full access to the community; Setting supports individual comfort, independence, and preferences; Participant is employed or active in the community outside of the setting	19. Do you get the option to go to church?		☐Yes ☐No	
Participant has full access to the community; Setting supports individual comfort, independence, and preferences;	20. Do you get to choose whether you go to church on the weekend or during the week?		☐Yes ☐No	

Participant is employed or active in the community outside of the setting				
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	21. Do you get to pick the activities you would like to do?		☐Yes ☐No	
Individual chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	22. Do you have scheduled times for group activities or appointments?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	23. Do you get to help decide when you do the activities?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences	24. Did you get to pick your doctor?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	25. Do you get to decide when you go to the doctor for an appointment?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant has full access to the community	26. Do you have the ability to come and go from your home?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences	27. Do you have access to basic household equipment as identified in the person-center plan (i.e., kitchen appliances)?		☐Yes ☐No	
Participant chooses when and what to eat	28. Do you have to eat at a scheduled time?		☐Yes ☐No	
Participant chooses when and what to	29. Do you get the option to select		☐Yes ☐No	

eat	what you want to eat?			
Participant chooses with whom to eat or to eat alone	30. Do you have an assigned seat in the dining area/cafeteria?		☐Yes ☐No	
Participant controls his/her personal resources	31. Do you have a checking or savings account?		☐Yes ☐No	
Participant controls his/her personal resources	32. Do you have a payee?		☐Yes ☐No	
Participant controls his/her personal resources	33. Do you have access to the money in your account(s)?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	34. Do you have a room where you can lock your personal items?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	35. Can other people in your home get into the room with your personal items?		☐Yes ☐No	
Participants has privacy in their sleeping space and toileting facility	36. Do you have a lock on your bedroom door?		☐Yes ☐No	
Participants has privacy in their sleeping space and toileting facility	37. Do you have a lock on a bathroom door for privacy?		☐Yes ☐No	
Participants are free from coercion	38. Do you know who you can call if you have an issue or problem with the staff at the setting?		☐Yes ☐No	
Participants are free from coercion	39. Do the staff talk to you about your right to file a complaint?		☐Yes ☐No	
Participant's rights to dignity and privacy is respected; Staff communicates with participants in a dignified manner	40. Do you feel that you are treated with dignity and respect by the staff?		☐Yes ☐No	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	41. Do you know what your rights and responsibilities are for the setting?		☐Yes ☐No	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	42. Do you know what your appeal rights are if you are evicted from the setting?		☐Yes ☐No	
Participant is protected from eviction and afforded appeals rights in the same	43. Do you know who to call if you are being evicted?		☐Yes ☐No	

manner as all persons in the Sate who are not receiving Medicaid HCBS				

Onsite Observation				
CMS Assurances	Requirement		Observation	Notes/Comment
Participants have full access to the community	1. Are there any barriers blocking or limiting access to the setting?		☐Yes ☐No	
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader community	2. Does the setting have posted visitation hours?		☐Yes ☐No	
Participant has unrestricted access in the setting	3. Are there locked doors preventing participants from accessing certain areas of the setting?		☐Yes ☐No	
Setting supports participation in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside of the setting	4. Are community activities or resources posted at the setting (i.e., community board)?		☐Yes ☐No	
Participant's right to dignity and privacy are respected	5. Are participant schedules (i.e., therapy hours) posted and available for view by multiple individuals?		☐Yes ☐No	
Participant's right to dignity and privacy are respected	6. Is there a lock on the participant's bedroom door?		☐Yes ☐No	
Participant's right to dignity and privacy are respected	7. Is there a lock on the participant's bathroom door?		☐Yes ☐No	
Participant chooses with whom to eat or to eat alone	8. Are there assigned names in the dining area/cafeteria or a seating chart posted at the setting?		☐Yes ☐No	
Participant chooses when and what to eat	9. Is there a meal time schedule posted at the setting?		☐Yes ☐No	
Participant chooses when and what to	10. Is there more than one meal		☐Yes ☐No	

eat	option available to the participant?			

☐Onsite Review
☐Participant Interview
☐Document Review

HCBS Final Rule Onsite Assessment
Non-Residential Settings

Date: _____

Assessor Name: _____
Assessor Organization (?): _____

Provider Name: _____
Service Address: _____

HCBS Population:
☐Autism ☐Frail Elderly (FE) ☐Intellectual or Developmental Disability (IDD) ☐Physical Disability (PD)
☐Technology Assisted (TA) ☐Traumatic Brain Injury (TBI) ☐Serious Emotional Disturbance (SED)

Setting Type: Non-Residential – A setting separate from the participant's private residence or other residential living arrangement.
☐ Adult Daycare (FE)
☐ Day Service – Unpaid activity/life skills (IDD)
☐ Sheltered workshop, enclave or other non-integrated paid employment (IDD)
☐ Home-based day services (IDD)
☐ Other non-residential setting _____

Document Review (policies, procedures, and regulations)				
CMS Assurances	Review	Data Source	Determination	Notes/Comment
Setting optimizes individual initiative, autonomy, and independent in making life choices;	1. Per policy/regulation, is the participant provided the opportunity to choose with whom to do activities in the setting?		☐Yes ☐No	
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader community	2. Per policy/regulation, does the setting afford opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting, and who in the setting will facilitate and support access to these activities?		☐Yes ☐No	
Participant has unrestricted access in the setting	3. Per policy/regulation, is the participant provided the opportunity for accessing any area in the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?		☐Yes ☐No	
Setting supports participant comfort, independence, and preferences	4. Per policy/regulation, does the setting afford the opportunity for tasks and activities matched to individuals' skills, abilities and desires?		☐Yes ☐No	
Participant has a legally enforceable agreement for the unit or dwelling where the participants resides	5. Per policy/regulation, is the participant provided the opportunity to have a legally			

	enforceable agreement/lease for the setting?		[redacted]	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	6. Per policy/regulation, is the participant provided the opportunity to know his/her rights regarding housing and when they could be required to relocate?			
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	7. Per policy/regulation, is the participant provided the opportunity for protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?			
Participants have full access to the community; Setting support participation in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside the setting	8. Per policy/regulation, is the participant provided the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference? For example, an absence for vacation or to attend a doctor's appointment.		☐Yes ☐No	
Participants have full access to the community; Setting support participation in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside the setting	9. Per policy/regulation, does the setting provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual?		☐Yes ☐No	
Participant chooses and controls a schedule that meets his/her wishes in accordance with a person-centered	10. Per policy/regulation, is the participant provided the opportunity to set his/her own		☐Yes ☐No	

plan	schedule for activities.?			
Participant controls his/her personal resources	11. Per policy/regulation, is the participant provided opportunity to control their own personal resources?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	12. Per policy/regulation, is the participant provided the opportunity to store personal items in an area that is not accessible to others?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	13. Per policy/regulation, is all information about individuals kept private?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	14. Per policy/regulation, are the participant's right to dignity and privacy is respected?		☐Yes ☐No	
Participant chooses when and what to eat	15. Per policy/regulation, is the participant provided the opportunity to select the meal of his/her preference?		[redacted]	
Participant chooses when and what to eat	16. Per policy/regulation, is the participant provided the opportunity to select the time he/she prefers to eat?			
Participant chooses with whom to eat or to eat alone	17. Per policy/regulation, is the participant provided the opportunity to select with whom he/she prefers to eat?		☐Yes ☐No	
Participant has access to make private telephone calls/text/email at the participant's preference and convenience	18. Per policy/regulation, is the participant provided the opportunity to make private phone calls/text/email at his/her preference?		☐Yes ☐No	
Participants are free from coercion	19. Per policy/regulation, is the participant provided the opportunity to be educated on the process for filing a complaint?		☐Yes ☐No	

Setting meets the needs of the participants who require supports and is physically accessible to the participants	20. Per policy/regulation, is the participant provided the extra support needed as identified on the person-centered service plan (i.e., ramps, grab bars, etc.)		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	21. Per policy/regulation, is the participant provided the opportunity to receive assistance with tasks appropriately and according to preference?		[redacted]	
Participants has privacy in the toileting facility	22. Per policy/regulation, is the participant provided the opportunity to access locked areas for privacy?		☐Yes ☐No	

Person-Centered Service Process or Plan				
CMS Assurances	Review	Data Source	Determination	Notes/Comment
Setting was selected by the participant	1. PCSP provides opportunity for the participant to get a choice in available options regarding where to receive services.		☐Yes ☐No	
Participant chooses from whom they receive services and supports	2. PCSP provides opportunity for the participant to get a choice of service provider		☐Yes ☐No	
Participant chooses from whom they receive services and supports	3. PCSP provides opportunity for the participant to be educate on how to request a change in provider.		☐Yes ☐No	
Participant, or representative, has an active role in the development and update of the person-centered plan	4. PCSP provides opportunity for the participant to express individuals that are important to the participant and may visit the residential settings		☐Yes ☐No	
Participant is employed or active in the community outside of the setting	5. PCSP provides opportunity for the participant to explore option for employment in the community		☐Yes ☐No	
Plan supports participant's comfort,	6. PCSP provides opportunity to		☐Yes ☐No	

independence, and preferences; Participant/representative has an active role in the development and update of the person-centered plan	reflect participant's needs and preferences			
Plan optimizes participant's comfort, independence, and preferences; Plan documents participant's choice of roommate	7. PCSP provides opportunity for the participant to request a change of roommate			
Plan documents participant's control over his/her resources	8. PCSP provides opportunity to document if the participant has a payee to handle financial tasks		☐Yes ☐No	
Participant chooses when and what to eat; Participant chooses with whom to eat or to eat alone	9. PCSP provides opportunity to reflect the participant's preferences related to food and eating arrangements		☐Yes ☐No	
Plan documents the needs of the participant who require supports and ensures the setting is physically accessible to the participants	10. PCSP provides opportunity to reflect the additional support needs of the participant (i.e., grab bars, wheelchair ramps, etc.)		☐Yes ☐No	

Consumer Interview

CMS Assurances	Review	Data Source	Determination	Notes/Comment
Individual chooses from whom they receive services and supports	1. Were you given the choice of several service providers?		☐Yes ☐No	
Setting was selected by the participant	2. Did you select to attend your current setting?		☐Yes ☐No	
Participant choices are incorporated into the services and supports received; Participant chooses from whom they receive services and supports	3. Are you satisfied with the services you are receiving?		☐Yes ☐No	
Participant, or representative, has an active role in the development and update of the person-centered plan	4. Did you or a representative participate in the person-centered service plan process?		☐Yes ☐No	
Setting and plan meet the needs of the participant who require supports and is	5. If needed, do you have access to additional supports such as		☐Yes ☐No	

physically accessible to the participant	wheelchair ramps, grab bars, etc.?			
Participant chooses from whom they receive services and supports	6. Do you know how to request a different provider if you are not satisfied with your services?		☐Yes ☐No	
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader community	7. Do people who don't work here visit sometimes?		☐Yes ☐No	
Setting supports participant comfort, independence, and preferences	8. Do you decide what to do during the day?		☐Yes ☐No	
Participants furnish and decorate their sleeping and/or living units in the way that suits them	9. Were you able to decorate your room the way you wanted?		[redacted]	
Participant has his/her own bedroom or shares a room with a roommate of choice	10. Did you get the option to request your own bedroom or choose your roommate?			
	11. Do you know how to request a change in room/roommate?			
Participant has unrestricted access in the setting	12. Can you go into any area of the building (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?		☐Yes ☐No	
Participant has unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services	13. Can you go into the community or to other places during the day?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences	14. Do you get to choose what activities you do for day service? Did you decide to come to (location)?		☐Yes ☐No	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	15. If needed, do you get help completing tasks to be appropriately clothed?		[redacted]	
Participants who need assistance to	16. If needed, do you get assistance			

dress are dressed in their own clothes appropriate for the time and individual preference	with cleaning your clothes?		[redacted]	
Participants who need assistance to dress are dressed in their own clothes appropriate for the time and individual preference	17. Do you get to select the clothes you wear each day?			
Participant is employed or active in the community outside the setting	18. Are you employed? a. Do you work in the community?		☐Yes ☐No	
Participant has full access to the community; Setting supports individual comfort, independence, and preferences; Participant is employed or active in the community outside of the setting	19. Do you know how to use public transportation (if available)? Would someone help you learn?		☐Yes ☐No	
Participant has full access to the community; Setting supports individual comfort, independence, and preferences;	20. Do you leave day services sometimes?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	21. Do you get to pick the activities you would like to do?		☐Yes ☐No	
Individual chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	22. Do you have scheduled times for group activities or appointments?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	23. Do you get to help decide when you do the activities?		☐Yes ☐No	

Setting supports individual comfort, independence, and preferences	24. Did you get to pick your doctor?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant chooses and controls a scheduled that meets his/her wishes in accordance with a person-centered plan	25. Do you get to decide when you go to the doctor for an appointment?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences; Participant has full access to the community	26. Do you have the ability to come and go from the day setting?		☐Yes ☐No	
Setting supports individual comfort, independence, and preferences	27. Do you know who to talk to if you want to change what you do during the day?		☐Yes ☐No	
Participant chooses when and what to eat	28. Do you have to eat at a scheduled time?		[redacted]	
Participant chooses when and what to eat	29. Do you get the option to select what you want to eat?			
Participant chooses with whom to eat or to eat alone	30. Do you have an assigned seat in the dining area/cafeteria?		☐Yes ☐No	
Participant controls his/her personal resources	31. Do you have a checking or savings account?		☐Yes ☐No	
Participant controls his/her personal resources	32. Do you have a payee?		☐Yes ☐No	
Participant controls his/her personal resources	33. Do you have access to the money in your account(s)?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	34. Do you have somewhere that you can lock your personal items?		☐Yes ☐No	
Participant's right to dignity and privacy is respected	35. Can other people get into the space with your personal items?		☐Yes ☐No	
Participants has privacy in their sleeping space and toileting facility	36. Do you have a lock on your bedroom door?		[redacted]	
Participants has privacy in their sleeping space and toileting facility	37. Does the bathroom door have a lock?		☐Yes ☐No	
Participants are free from coercion	38. Do you know who you can call if you have an issue or problem with		☐Yes ☐No	

	the staff at the setting?			
Participants are free from coercion	39. Do the staff talk to you about your right to file a complaint?		☐Yes ☐No	
Participant's rights to dignity and privacy is respected; Staff communicates with participants in a dignified manner	40. Do you feel that you are treated with dignity and respect by the staff?		☐Yes ☐No	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	41. Do you know what your rights and responsibilities are for the setting?		[redacted]	
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	42. Do you know what your appeal rights are if you are evicted from the setting?			
Participant is protected from eviction and afforded appeals rights in the same manner as all persons in the Sate who are not receiving Medicaid HCBS	43. Do you know who to call if you are being evicted?			

Onsite Observation

CMS Assurances	Review	Data Source	Determination	Notes/Comment
Participants have full access to the community	1. Is there evidence that there is opportunity for regular interaction with the broader community?		☐Yes ☐No	
Setting does not isolate participants from individuals not receiving Medicaid HCBS in the broader community	2. Is there evidence that outside visitors (not paid staff) are/have been present?		☐Yes ☐No	
Participant has unrestricted access in the setting	3. Are there locked doors preventing participants from accessing certain areas of the setting (excluding areas that would serve a safety hazard or would interfere with the privacy of other participants)?		☐Yes ☐No	
Setting supports participation in	4. Are community activities or		☐Yes ☐No	

unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services; Participant is employed or active in the community outside of the setting	resources posted at the setting (i.e., community board)?			
Participant's right to dignity and privacy are respected	5. Are participant schedules (i.e., therapy hours) posted and available for view by multiple individuals?		☐Yes ☐No	
Participant's right to dignity and privacy are respected	6. Do staff speak appropriately and respectfully to person's served?		☐Yes ☐No	
Participant's right to dignity and privacy are respected	7. Is there a lock on the facility's bathroom door?		☐Yes ☐No	
Participant chooses with whom to eat or to eat alone	8. Are there assigned names in the dining area/cafeteria or a seating chart posted at the setting?		☐Yes ☐No	
Participant chooses when and what to eat	9. Is there a meal time schedule posted at the setting?		[redacted]	
Participant chooses when and what to eat	10. Is there more than one meal option available to the participant?			

Return to Onsite Assessment

B.4 Onsite Assessment Training Invitation

Return to Onsite Assessment

Home and Community Based Services
Commission
New England Building
503 South Kansas Avenue
Topeka, KS 66603-3404

Kansas
Department for Aging
and Disability Services

Phone: (785) 296-3537
Fax: (785) 296-0256
wwwmail@kdads.ks.gov
www.kdads.ks.gov

Timothy Keck, Interim Secretary
Brandt K. Haehn, Commissioner

Sam Brownback, Governor

Dear Stakeholder,

As you may know KDADS is in the process of assessing our compliance with the HCBS Settings Final Rule from CMS. We will soon begin the process of completing onsite assessments of settings and are seeking volunteers to work on teams with KDADS Survey and Credentialing staff to complete these assessments. Volunteers must have knowledge of at least one HCBS Waiver and attend the one day training on July 7, 2016 for completing onsite assessments. The draft process and methodology is attached and may help answer questions you have.

More information about the HCBS Settings Final Rule is available on our website at:
http://www.kdads.ks.gov/commissions/home-community-based-services-(hcbs)/hcbs-waivers

Final Rule Onsite Assessment Training

Thursday July 7, 2016
9:30 am - 3:30 pm
Holiday Inn
3145 S. 9th Street
Salina, KS

Training will include:

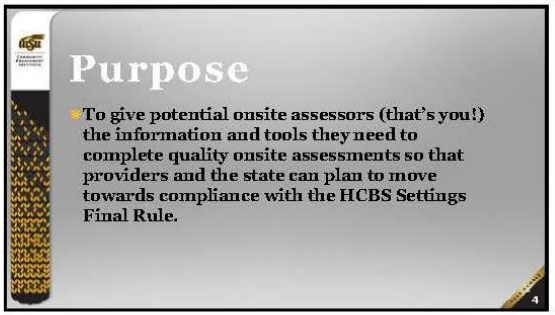
Why we are doing this?
- An overview of the HCBS Settings Final Rule

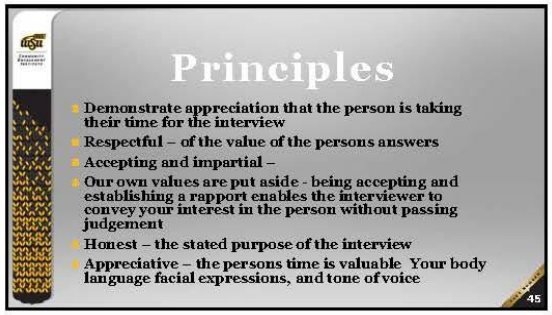
What are we doing?
- The Onsite Assessment Tool
- The Onsite Assessment Process

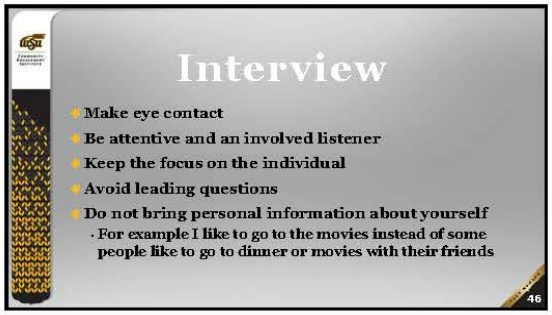
How do I do this work?
- Confidentiality, HIPAA/PHI Assessment
- Rights and Responsibilities Agreement
- Mandated Reporting/ANE
- Waiver Acronyms, Terms, & Services
- Interviewing Tips
- Onsite Assessment Logistics

Registration for this training is required as seating is limited. Please reserve your spot by email to HCBS-KS@kdads.ks.gov by July 5, 2016.

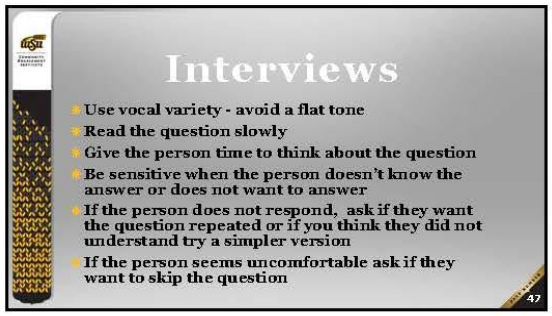
B.5 Onsite Assessment Training Presentation

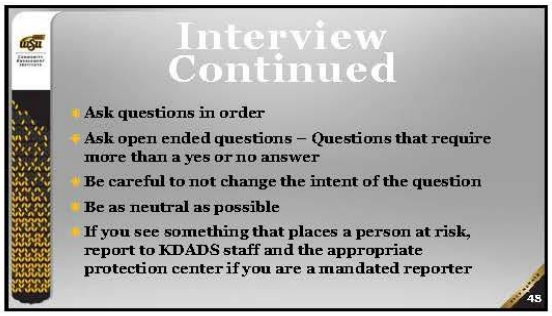






Return to Onsite





Assessment

B.6 Provider Notification of Final Rule Compliance (draft form)

Dear [provider name],

Thank you for responding to the attestation survey for the CMS Final Rule on HCBS Settings, your response helps us to plan for the next steps in assuring that HCBS settings in Kansas meet the requirements of the rule and will be able to continue to receive HCBS funding after March 17, 2019.

Based on the information you provided in the attestation survey, your setting(s) located at [addresses] don't yet meet all of the requirements of the Final Rule. This means that changes (or remediation) are needed within these settings in order to meet with the requirements of the Final Rule.

Below are the Final Rule requirements for HCBS settings, highlighted are the areas not yet compliant with the Final Rule, based on your attestation survey response.

All HCBS Settings:

Integration

Choice

Independence

Rights

Provider Owned Residential Settings:

Lease/rental agreement

Privacy

Autonomy

Accessible

[Insert anything specific that is not compliant]

This determination of compliance setting(s) applies only to the settings specifically identified by address above. If you disagree with this determination, please contact [name] and we can discuss the attestation response in order to ensure accuracy.

What happens next? Not being complaint with the Final Rule at this time does not affect your current ability to provide and be reimbursed for HCBS services. We will soon begin working with providers who have settings requiring remediation and will be in contact with you in the near future to start this discussion.

If you are interested in making changes in order to comply with the final Rule, we will work with you to develop a remediation plan to assure that this setting complies with the Final Rule by March 17, 2019. If you do not intend to make changes or are not able to, you will need to notify us by [date] so we can work with you to make a plan for people served in these settings to choose other HCBS settings.

Thank you, again, for your efforts and response as we continue to move towards implementation of the CMS Final Rule on HCBS Settings. If you have any questions about this letter, please contact [who] at [phone or email]. More information about the Final Rule can be found on the KDADS Final Rule webpage at http://bit.ly/ksfr.

Return to Onsite Assessment

B.7 Consumer Survey

HCBS Final Rule Consumer Survey

Wichita State University
Institutional Review Board Approval #3684
08/22/16 – 07/05/17

WICHITA STATE UNIVERSITY
COMMUNITY ENGAGEMENT INSTITUTE
Center for Applied Research and Evaluation

July, 31st 2016

Dear Consumer,

My name is Tara Gregory, Director of the Wichita State University Center for Applied Research and Evaluation (CARE). CARE provides help to organizations by collecting opinions from consumers like you. You have been given this website link because you or the person you care for (as a caregiver, parent or guardian) gets services through HCBS. The Kansas Department for Aging and Disability Services (KDADS) has asked us to send you the survey to help them understand how well your HCBS services are meeting your needs. This survey includes questions about how much choice you (or the person you care for) have in things like when and what you eat, how you dress and other things like these. It also asks whether you (or the person you care for) have a care plan and some other things about your HCBS services. The survey will be sent to 1500 - 3000 HCBS consumers.

I hope you will take a few minutes to complete this survey. It should take about 15-20 minutes. But it's completely up to you whether you take it or not. This survey doesn't ask you about personal things or anything that should make you uncomfortable. However, if you feel uncomfortable with a question, you may skip it or stop at any time. Nothing you say on the survey will in any way influence your present or future HCBS services. If you choose to take this survey, please don't put your name anywhere on it. No one other than me and my staff will see your answers. We will combine the answers from all surveys into one report that doesn't include any information about individual people. We may publish the results of this survey but we will only discuss overall results.

If you have any questions or concerns about completing the survey, please contact me at (316) 978-3714 or at tara.gregory@wichita.edu . If you have any questions about your rights as a research subject, you may contact the Office of Research and Technology Transfer, Wichita State University, Wichita, KS 67260-0007, telephone (316) 978-3285. This study (IRB #3684) was approved by the IRB in July 2016.

Sincerely,

Tara Gregory, PhD
Director
tara.gregory@wichita.edu
316.978.3714

WICHITA STATE UNIVERSITY
COMMUNITY ENGAGEMENT INSTITUTE
Center for Applied Research and Evaluation

Q2 Wichita State University Institutional Review Board Approval #3684 07/06/16 – 07/05/17 Because you or a person you care for (as a parent, guardian or caregiver) receive Home and Community Based Services (HCBS) from the Kansas Department for Aging and Disability Services (KDADS), we're asking that you participate in this survey about your experiences. Your answers will help KDADS and other service providers make their HCBS programs better. Here are some things you should know: Taking this survey is completely voluntary and you can skip questions or stop answering at any time. No matter what your answers are or even if you decide not to participate, it will not affect your HCBS or relationship with KDADS or any of your providers. Please do not put your name or other identifying information on this survey. Your answers will be combined with those of everyone else who filled out a survey, so no one will be able to tell how you answered any question. If you have any concerns or questions, you can contact: Dr. Tara Gregory, Wichita State University Center for Applied Research and Evaluation,tara.gregory@wichita.edu, 316-978-3714 The Wichita State Office of Research and Technology Transfer, 316-978-3285

Q3 Please check the box below if you agree to take this survey.

- ❍ Yes, I agree to participate (1)
- ❍ No, Thank you. (2)

If No, Thank you. Is Selected, Then Skip To End of Survey

Q4 HCBS Consumer Survey The purpose of this survey is to gather information about your experience with Home and Community Based Services (HCBS) as a consumer. We ask you to keep in mind that we're asking for feedback ONLY about your experiences with the services you receive through HCBS for the following waivers: Technology assisted, Traumatic Brain Injury (TBI), Intellectual/Developmental Disability (I/DD), Physical Disability, Frail Elderly, Autism, and Severe Emotional Disturbance (SED). A couple of other things to keep in mind are: This survey is completely anonymous so your answers cannot be connected back to you. Taking this survey is voluntary and you may skip any questions or stop at any time. Your answers to these questions and your decision whether to take the survey will not affect your benefits from or relationship with your service provider(s), KanCare, the Kansas Department for Aging and Disability Services, or your HCBS services in any way. So please feel free to give your honest feedback.

Q5 Please check only one of the options below that best describes you:

- ❍ I receive HCBS and am completing the survey myself (1)
- ❍ I receive HCBS and a GUARDIAN/CAREGIVER is assisting me in taking this survey (2)
- ❍ I receive HCBS and a SERVICE PROVIDER is assisting me in taking this survey (3)
- ❍ I receive HCBS and a CASE MANAGER is assisting me in taking this survey (5)
- ❍ I am a GUARDIAN/CAREGIVER taking the survey on behalf of the person with HCBS (6)

Q8 Under what waiver do you receive HCBS?

- ❑ Technology Assisted (1)
- ❑ Traumatic Brain Injury (TBI) (2)
- ❑ Intellectual/Developmental Disability (I/DD) (3)
- ❑ Physical Disability (4)
- ❑ Frail Elderly (5)
- ❑ Autism (6)
- ❑ Severe Emotional Disturbance (SED) (7)
- ❑ No Answer (0)

Q9 NOTE FOR GUARDIANS/CAREGIVERS/PROVIDERS: The questions below ask for information about the person receiving home and community-based services. The questions typically say “you” or “your.” Please answer the questions below for the person for whom you’re a guardian/caregiver/ provider – not about yourself.

Q10 What is your age in years?

Q11 What city or town do you use for your address?

Q12 Please pick (check) which option below best describes your living situation

- ❍ I live alone (1)
- ❍ I live with one or two other people WHO ARE NOT MY FAMILY (2)
- ❍ I live with three or more other people WHO ARE NOT MY FAMILY (3)
- ❍ I live with family (4)

Q13 Where are your HCBS services provided?

- ❍ At my own personal home (1)
- ❍ At a group home (2)
- ❍ At an adult day center (3)
- ❍ At an adult family care center (4)
- ❍ At a residential care home (5)
- ❍ At a nursing home (6)
- ❍ At an assisted living facility (7)
- ❍ I don’t know (8)
- ❍ At a sheltered workshop (9)

Q14 Did you have a choice between sharing housing with roommates OR having your own private housing?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)

Q15 If you share a housing unit with others, were you allowed to choose your roommates?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t share my housing (4)

Q16 If you receive residential services, are they from a licensed provider?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t receive residential services (4)

If No Is Selected, Then Skip To If you receive day services, are they...If I don’t know Is Selected, Then Skip To If you receive day services, are they...If Yes Is Selected, Then Skip To If you receive day services, are they...If I don’t receive residential... Is Selected, Then Skip To If you receive day services, are they...

Q17 What best describes the amount of residential supports you receive?

- ❍ a staff person is always there (1)
- ❍ a staff person is there most of the time (2)
- ❍ a staff person is there some of the time (3)
- ❍ a staff person comes if I ask them to (4)

Q18 If you receive day services, are they received from a licensed provider?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t receive day supports (4)

Q19 Do you receive supportive home care or personal assistance services?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)

Q20 Do you have a care plan?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)

Q21 If you know you have a care plan, were you involved in creating the care plan?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t have a care plan (4)

Q22 If you know you have a care plan, do you have a clear understanding of your care plan?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t have a care plan (4)

Q23 If you have a care plan, does your care plan provide you with interventions or services that are helpful and do not harm you in any way?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t have a care plan (4)

Q24 If you have staff at your home, do the staff provide transportation?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ I don’t have staff at my home (4)

Q25 If the staff does not provide transportation, do they provide information to help you receive transportation?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)
- ❍ Staff already provides transportation (4)
- ❍ I don’t have staff at my home (5)

Q26 Do you receive day services in the same place that you live?

- ❍ Yes (1)
- ❍ No (2)
- ❍ I don’t know (3)

Q27 If you receive day services somewhere else, where do you go for day services?

- ❍ In a building that provides disability specific services. (1)
- ❍ Where the provider office is located. (2)
- ❍ Other: (3) _____
- ❍ I don’t know. (4)
- ❍ I don’t use day services (5)

Q28 Thinking about all of the services you currently receive through HCBS, please tell us (CHECK) how strongly you agree or disagree with the following sentences:

	Strongly Disagree (1)	Disagree (2)	In the Middle (3)	Agree (4)	Strongly Agree (5)
I'm satisfied that I'm getting the right services for my needs. (SQ1)	❍	❍	❍	❍	❍
The services I receive help me. (SQ2)	❍	❍	❍	❍	❍
I'm satisfied with my experience with HCBS. (SQ3)	❍	❍	❍	❍	❍
I am able to seek employment and job opportunities like anyone else in my community. (SQ4)	❍	❍	❍	❍	❍
I have personal control over my resources (i.e. money and personal belongings). (SQ5)	❍	❍	❍	❍	❍
I am able to receive services and resources in the community like anyone else who does not receive HCBS. (SQ6)	❍	❍	❍	❍	❍
I have a choice in where I want live. (SQ7)	❍	❍	❍	❍	❍
I have privacy in my housing unit (including having the right to lock my room). (SQ8)	❍	❍	❍	❍	❍
My home and environment are physically accessible for me (SQ9)	❍	❍	❍	❍	❍
I am able to decorate and furnish my home as I like	❍	❍	❍	❍	❍

(SQ10)					
I am in control of my own schedule. (SQ11)	❍	❍	❍	❍	❍
I feel connected to my neighborhood or community. (SQ12)	❍	❍	❍	❍	❍
I am able to participate in any activity within my community or neighborhood as I like. (SQ13)	❍	❍	❍	❍	❍
I am able to eat whenever and whatever I like. (SQ14)	❍	❍	❍	❍	❍
I am able to have visitors whenever I like. (SQ15)	❍	❍	❍	❍	❍
I am able to make my own life choices. (SQ16)	❍	❍	❍	❍	❍
I feel respected and dignified in my experiences with HCBS. (SQ17)	❍	❍	❍	❍	❍
I make my own choice on what services or providers to use. (SQ18)	❍	❍	❍	❍	❍
The HCBS services I receive are respectful of my culture and heritage. (SQ19)	❍	❍	❍	❍	❍
I have friends or relationships with people other than paid staff, family or other individuals receiving services. (SQ20)	❍	❍	❍	❍	❍
I decide how to spend my money. (SQ21)	❍	❍	❍	❍	❍
I generally go outside of	❍	❍	❍	❍	❍

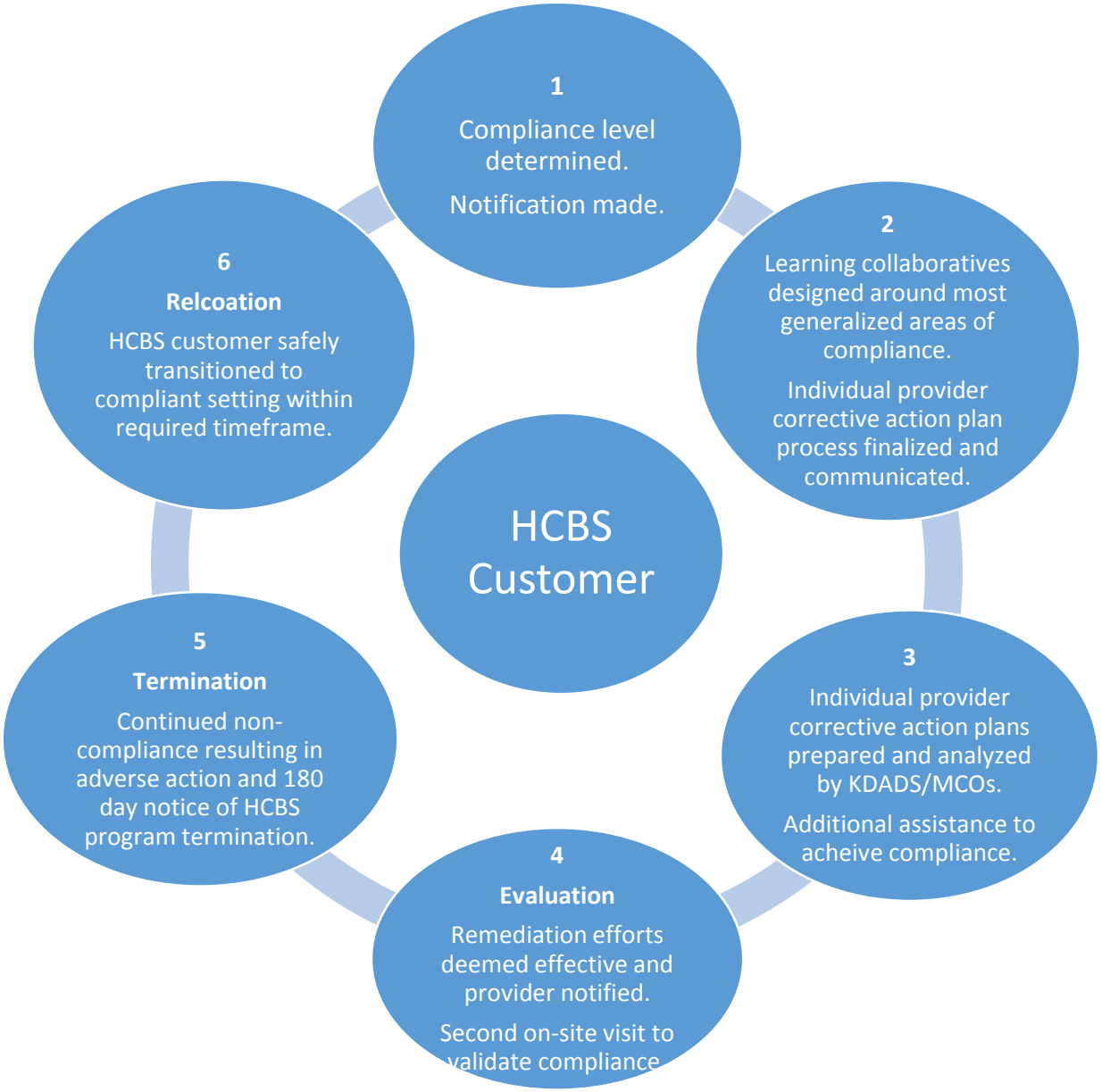
my home whenever I feel like (such as going to lunch, going shopping, going to church, etc.). (SQ22)					

Q29 Use this space for any other comments:

Q30 THANK YOU FOR YOUR FEEDBACK ON HCBS!

Return to Additional Settings Measures

Appendix C - Provider Remediation Plan Template



Return to Remediation

Summary of Statewide Transition Plan (STP) Workgroup Recommendations

This is a summary of the recommendations made by the STP Workgroup provided as a supplement to the STP Recommendation Report with KDADS responses; responses provided considered the recommendations in their entirety.

Dementia Recommendations	
Recommendation	**KDADS Response**
1.1. Develop guidance on person-centered care planning that is specific to persons with dementia.	The state will incorporate this recommendation into the state PCP training.
1.2. Determine the financial resources and workforce needed to maintain and increase the capacity for HCBS services across Kansas.	The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
1.3. Review and identify differences in terminology and requirements concerning person-centered planning among different provider settings.	The state will add this recommendation to the state person centered planning training.
1.4. Determine the financial resources and workforce needed to maintain and increase the capacity for HCBS services across Kansas.	The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
1.5. State Assistance in Transitioning HCBS Consumers in Non-Compliant Settings	This recommendation is incorporated into the STP.
1.6. Allow for stakeholder review on Right to Appeal language.	The state will allow for stakeholder input into the appeal language.
1.7. KABC recommends that the state review and adopt a "right to rent" statute for Medicaid waiver participants, similar to public housing	This would be a legislative issue.
1.8. KABC recommends that a complimentary internal hearing and process be created for older consumers as well as the right to an external hearing, such as an administrative state fair hearing.	The state will allow for appeal rights for individuals in adult care homes. Consumers also can reach out to the LTC Ombudsman.
1.9. Any verbal assurance/promise made to an older adult or legal representative at the time of lease is required to be incorporated into the terms of the lease agreement.	The regulations already require any verbal assurance to be in the Negotiated Service Agreement.
1.10. KABC recommends that individuals should	All settings will be required to have PCP

	not be automatically restricted based on a diagnosis of dementia or when renting or purchasing care in a "memory care" or "adult day care" setting. Any and all restrictions should be subject to the requirements of modification and be laid out in detail with supporting documentation in the person-centered service plan.	
1.11.	KABC recommends that the state set legal requirements for dementia care staffing ratios and training.	The state does not agree to staffing ratios but rather the facility must staff to meet the needs of the resident.
1.12.	KABC recommends that the state use the planning process to create the next generation of health promoting settings and services which will serve older adults with dementia and meet the requirements of the HCBS final setting rule	The state does not understand this recommendation.

2. Day Services		
Recommendation		**Response**
2.1.	Kansas is an employment first state and we encourage everyone to consider employment as the first option.	The state agrees with this recommendation.
2.2.	Anyone participating in day services, and their natural supports, should receive annual counseling and training on benefits, other options, and resources available to help them achieve employment goals.	The state agrees with this recommendation.
2.3.	Day service setting- Individualized Community Integrated Day Services: Recipients have individualized schedules and spend the majority of their day services in the community	The state agrees with this recommendation.
2.4.	Day service setting- Facility Based Day Services: Day Services provided in a facility setting only when a person needs time-limited pre-vocational training, and only when such training is not available in community settings.	The state agrees with this recommendation.
2.5.	Day service setting- Individualized Day Service Plan Due to Exceptional Needs / Day service Exceptions based on individualized, ongoing need due to health/behavioral need or operation of a home based business.	The state agrees with this recommendation.

2.6.	Final decisions should be based on data	The state agrees
2.7.	Recommendation to Legislature to provide funding for the systematic changes needed to meet the needs of all individuals.	The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
2.8.	Create a rate structure reflective of a business model that maintainable for providers and supports the outcomes the state wants.	The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
2.9.	Training should be available for providers, including direct care staff, about changes	The State concurs with this recommendation.
2.10.	Certification for day services providers – all providers (including current) are/will be certified- as part of certification, providers share plans for ensuring services are community integrated.	The State is reviewing this recommendation.
2.11.	Accountability and communication; feedback loop to stakeholders	The state concurs with this recommendation.
2.12.	Goods and services option- allow for use of waiver services to purchase vocational instruction (welding lessons, classes, etc.)	The state will review this recommendation.
2.13.	Technical assistance- PCSP utilization, family members and guardians about changes	The state concurs with this recommendation.
2.14.	Currently, when a provider is successful at achieving employment outcomes, they are penalized; this barrier should be removed.	The state does not understand what the barrier might be.

3. Non-Integrated Employment Settings Recommendations		
Recommendation		**KDADS Response**
3.1.	Additional funding and resources to is needed to ensure full compliance with the new Final Rule. The state must calculate and fund a sufficient fiscal note to accomplish Final Rule implementation.	The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
3.2.	There should be no requirement that providers submit transition plans until alternative Waiver services are finalized. Kansas needs to draft Waiver amendment language immediately in order to develop the menu of services which will offer Kansans the alternatives needed to accomplish compliance with the Final Rule.	The state will provide technical assistance to providers of settings who do not comply or are in partial compliance. The provider must submit a plan to the state as to how they will come into compliance with the Rule.
3.3.	The "Final Rule Transition & Remediation Timeline" should be changed. Currently, this timeline, as one example, has	The state must work to ensure compliance and those details are in the draft plan. The STP is an ongoing document and will change as we add

	providers submitting "remediation plans" to the state even though Kansas' Final Rule plan has not been approved by CMS.	steps to the plan.
3.4.	Service definitions proposed by this subgroup (see full recommendations document) need to be consistent with other programs, rules and definitions used by the state. Terms need to mean the same thing.	The state concurs with this recommendation.
3.5.	There should be a specific effort to ensure there are no unintended consequences harming or adversely affecting the resources to carry out the Final Rule.	The state concurs with this recommendation.
3.6.	Systems change should be specific, incremental, intentional and across departments and state agencies. As an example, we know of no current disability program or support that has the current capacity to absorb a huge influx of referrals that could result from transitions driven by the Final Rule. We need to be cognizant of these limitations.	The state understands this concern.
3.7.	The state should tap existing expertise as they develop all of the needed tools and steps to comply with the Final Rule. This expertise includes providers, self-advocates, advocacy organizations, people with disabilities and families. The state needs to partner with these experts. Engagement with stakeholders needs to immediately occur to review those draft Waiver amendments prior to their submission for public comment.	The state concurs with this recommendation.
3.8.	Develop an assessment process to ensure that the most integrated setting is achieved on an individualized basis. Such a process must be free from conflicts of interest, address the needs of the individual, and conform to the Final Rule.	The settings offered and selected by the individual, or representative will be reflected in the PCP. The assessment process will be free from conflict of interest.
3.9.	An overriding goal must be preserving and expanding service capacity in order to conform to the Final Rule. This does not mean simply preserving the status quo. It means preserving and expanding the capacity to empower and serve Kansans with disabilities in the most integrated	The state will proceed forward under the assumption there is not additional funding available for STP requirements.

	setting. Doing this will take time, money and immediate attention by Kansas.	
3.10.	State should adopt the supported employment Waiver Integration Stakeholder Engagement (WISE) 2.0 workgroup recommendations for a new supported employment HCBS program, as outlined in this report. (See full recommendations report.)	The state will review this recommendation.
3.11.	The entire system should be incentivized in order to fund the desired outcome of increased competitive, integrated employment for people with disabilities of all working ages. Kansas needs to funds the outcomes it desires. According to Kansas public policy, competitive, integrated employment is supposed to be the first, and desired, option. As one example, disability provider payments could be incentivized toward the outcome of competitive and integrated employment and perhaps away from a simple fee for service model.	The state will review this recommendation. The state will proceed forward under the assumption there is not additional funding available for STP requirements.
3.12.	Kansas public policy needs to be evaluated to ensure it is consistent with the Final Rule toward the goal of community-based, integrated services. As an example, Article 63 envisions facility-based services. Rates and supports will need to be individualized in order to obtain the principles detailed in this report.	The state will proceed forward under the assumption there is not additional funding available for STP requirements. The Rule does not prohibit congregate settings or limit the number of individuals.
3.13.	Policy and procedure changes need to ensure that non-integrated employment settings be limited to prevocational supports, be time-limited, goal-oriented, person-centered, and used only when it is truly the most integrated setting. This stated policy to conform to the Final Rule mandate cannot be in name only. Kansas policy and procedures need to contain effective accountability mechanisms in order to ensure these principles are accomplished. Rates and supports will need to be individualized in order to obtain the principles detailed in this report. Kansas also needs are far more robust validation process in order to	The state will proceed forward under the assumption there is not additional funding available for STP requirements. The state concurs with policies and procedure changes be limited to prevocational supports.

	compliance and attach a fiscal note to KDADS budget recommendations	assumption there is not additional funding available for STP requirements.
4.2.	Time- need more time to work on this and develop templates & guidelines	The state will continue to work on the plan with stakeholder input.
4.3.	Need for transparency- current status, outcome of assessments, stakeholder engagement.	The state concurs with this recommendation.
4.4.	Conflict of Interest- need more guidance related to conflict of interest. Create policies to mitigate COI in IDD & SED TCM service.	The state is working with CMS on the COI.
4.5.	Conflict Resolution- Identify strategies for conflict resolution	The state doesn't understand this recommendation
4.6.	State Statutes, Regulations, or Policies- Require regulations and statute to reflect requirements of PCSP. Identify potential solutions to integrate ISP with PCSP to reduce overassessment of participants.	Policy will reflect requirements for the PCP. The PCP is a stand alone document.
4.7.	Oversight- assure state and provider policies are compliant with the Final Rule, clarify CDDO role in oversight, audit process to assure PCSPs meet the rule, and process for reporting non-compliance with the Final Rule.	The state licensing and quality review staff will assure compliance of the PCP.
4.8.	System Access- Needs to be a singular, identified PCSP/ISP process.	PCP is a stand alone document. The ISP is about services and the PCP is about the individual and their choices.
4.9.	Require initial & ongoing training of the documenter (qualification)	The state is unsure of the recommendation.
4.10.	Identify a consistent training model of PCSP statewide; prior to implementation of the new process, annually thereafter.	The state concurs with this recommendation.
4.11.	Stakeholder education is standardized so everyone gets the same information & Comprehensive educational guide about PCSP	The state concurs with this recommendation.
4.12.	In order to address COI – whenever possible the participant will facilitate their own PCSP; if unable their designated representative will facilitate. Qualified persons will document the PCSP; allow this person to work across waivers.	The individual should always drive the PCP.
4.13.	MCO's need to be a team member for the PCSP team	The MCOs complete the PCP.
4.14.	Designated entity should attempt to conduct a preparation meeting with	The state concurs with this recommendation.

participants before their PCSP meeting. Designated entity should check for participant understanding throughout the PCSP meeting	

Return to Public Engagement

Appendix D- Public Comment

Statewide Transition Plan Public Comments

This report contains the public comments received related to Kansas' Statewide Transition Plan for CMS' HCBS Settings Final Rule. Comments are organized by topic area and with space for State response. Where possible and sensible, similar comments are grouped and summarized to allow for single response, though in some cases the State may still opt to respond to individual comments. For this report, individual and agency names have been redacted.

Transition Plan Detail and Request for Additional Information

Comment/Summary	State Response
There were seventeen (17) comments referencing statewide transition plan detail. Comments stated there is insufficient detail related to the changes that will be needed and how they will be made, as well as details to give providers guidance for coming into compliance with the Final Rule.	**KDADS agrees.** Additional details have been provided based upon public comments. Specific edits include: 1. Systemic data analysis and trends based upon provider attestation surveys, participant surveys, and on site assessments. 2. Specific details on number of sites based on setting type. 3. Specific timelines and project plans to reach final rule compliance. 4. Specific timelines for remediation of systemic issues discovered in surveys and on site assessments.

1. I have not studied the transition plans of other states, however, I believe there have been numerous done and most are significantly more detailed. I did have opportunity to participate in a special presentation by representatives from Tennessee regarding their Final Rule preparations. Generally, as a provider of IDD services and administrator in the IDD system, Kansas' State Transition Plan lacks detail, where greater detail would be helpful for providers, families and other stakeholders to better understand the State's intention in moving forward under the Final Rule.

2. Stakeholders across the state were eagerly awaiting the distribution of an updated draft plan to provide more direction about what they should be working on to assure that they would be in compliance. Unfortunately, this latest plan talks about the process that has been in play since March of 2014, but doesn't offer much helpful information about how programs and services for people who rely on HCBS in Kansas will need to change by March of 2019

3. As the end of the third year of the five-year process rapidly approaches, there is still no clear guidance to follow to determine if significant changes will need to be made that could have a dramatic impact on people's lives. Obviously it would be best to have an approved plan as soon as possible to allow for the identification of needed change and some amount of remaining time to implement that change. The suggestion that providers of non-compliant

services can submit a meaningful compliance plan in the next 11 weeks does not seem reasonable, especially in light of the fact that it does not appear that anyone has yet been advised whether their services are or are not in compliance.

4. State's Transition Plan is Inadequate in Detail

The draft Transition Plan document submitted by the State of Kansas totals 16 pages. Compared to states that have received initial or final approval from CMS, the brevity of the Kansas plan is concerning. Looking at states with initial or final approval, a stark contrast in the amount of detail provided to CMS and stakeholders can be seen:

- Arkansas - 246 pages
- Connecticut -43 pages
- Delaware - 81 pages
- Idaho ..,. 172 pages
- Indiana -142 pages
- Iowa -77 pages
- Kentucky - 97 pages
- North Dakota -171 pages
- Ohio -136 pages
- Oregon -153 pages
- Pennsylvania - 202 pages
- South Carolina -165 pages
- Tennessee -56 pages
- Virginia -239 pages
- Washington - 379 pages
- West Virginia -178 pages

5. Further, the Kansas Transition Plan mentions several large system-changing elements, but provides inadequate detail regarding the need for those changes, or what specific types of changes will be pursued by the State of Kansas. Such large elements include:

1. Revisions to HCBS waivers (page 3)
2. Revisions to policies and manuals {page 4)
3. Required changes to regulations (page 9)
4. Required changes to CDDO contracts and CDDO affiliate agreements (page 4) All of the above elements could potentially have significant impacts on the IDD service delivery system and any changes the State of Kansas seeks to apply as part of its Transition Plan should be addressed in detail in order for stakeholders to provide meaningful feedback, and also anticipate organizational changes that will be required in accommodating the Plan.

6. Concern #3: State's Transition Plan is Incomplete in Needed Detail for Providers and Stakeholders In addition to the inadequacy in detail for providers regarding onsite assessments, The State's Transition Plan provides no details for providers on how to develop required transition plans or quarterly reports (page 7). Providers will be required to provide transition plans within 90 days (March 2017) without any understanding of what needs to be included in those plans. An example of a transition plan and plan template would be extremely helpful for providers who will be required to complete this task.

Further, when providers and stakeholders have asked the State of Kansas for more detail regarding its intentions for system changes relative to the Final Rule, the State has instructed them to consult the State's "HCBS Final Rule Crosswalk". However, the Crosswalk is intended to provide only information on residential settings and does not contain information on requirements for day service transformation - arguably the most challenging transition aspect for many I/DD service providers.

7. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) The plan doesn't adequately address the philosophical changes necessary to bring HCBS programs into full compliance.

8. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) The State Plan does not address the necessary details to make the significant transition from sheltered workshops to community placements. The "Plan" is more of a statement than actual plan.

9. (Response to online feedback form question “What else should Kansas keep in mind?”) Not sure how this rule effects providers that provide HCBS to participants in their home. There wasn't much info on it.

10. The plan as it is written addresses the technical details of the new regulations and basic information required by CMS. I believe the Plan can be strengthened by focusing on the philosophy that led to the new regulations and thereby creating a plan that goes beyond a technical approach to meeting the new rules. This philosophy was strongly influenced by numerous Kansans and I am confident that by working together, KDADS and stakeholders, including consumers, can continue to move these changes forward in a positive manner.

Based on this, I would recommend the Transition Plan outline a true roadmap detailing how stakeholders will implement the necessary changes and continue to improve our HCBS programs with a goal of full community integration. As it is currently written, the Transition plan does not provide sufficient detail and assurances for consumers and family members to understand and/or support the process. I believe this is also the reason for lack of engagement and comments. Consumers and families are viewing these rules as something “being done to them” rather than a process they could and should be involved in to improve services and individual’s lives.

13. I read the Statewide Transition Plan, and I don’t feel like it provided any actual direction. I have no better understanding of what the State believes to be an integrated setting than I did before. I also think it is a disservice to people with disabilities in Kansas that the plan does not explain a funding stream to

pay for all the proposed changes. Without additional funds no one will able to come into compliance and the state will be in a bad way.

14. While there is new information in the latest state transition plan, our biggest concern is what is not in the plan. The plan does a good job of describing what has been done in regards to developing this plan, but is unfortunately very short on details, such as where the State of Kansas HCBS settings are at quantitatively. It also lacks detail regarding what the plan is going forward.

We would encourage the State of Kansas to follow the lead of Tennessee and conduct its planning process in a similar manner. Tennessee conducted a process that is very thorough, transparent, and most important effective. National disability rights advocates have had positive things to say out Tennessee's transition plan and planning process. We would respectfully recommend that the process Kansas uses needs to be both effective and transparent. This would be beneficial to both providers, and the disability community. Following Tennessee's process would go a long way toward helping to make Kansas' process more effective and transparent.

15. The draft STP remains vague and lacks necessary detail. As [State Association] has previously pointed out, the September 2015 CMS letter to the State clearly states that, as written, the draft STP remains light on details regarding specific statutes, rules, and regulations that need to be amended or repealed in order to comport with the Final Rule. Additionally, the draft STP lacks a cohesive detailed narrative and project plan to clarify the materials put forth.

In order for stakeholders to be able to provide constructive comment, we recommend that State include within its STP any and all details regarding the amending or repeal of statute, rules, regulations, and waiver language, so that stakeholders have a clear understanding upon which to make informed recommendations.

16. The State needs to be fully transparent throughout the drafting process and beyond. Since 2014, the State has sent out two rounds of provider self-assessment surveys. The results of those surveys have yet to be shared with stakeholders or the public, and do not appear to be contained within the draft STP. This is representative of a general lack of transparency regarding the State's expectations, and handcuffs HCBS providers' abilities to address those expectations.

Another example would be the draft STP's silence regarding the specific aspects of "remediation" for settings non-compliance. There is no information provided as to timeline for notification or compliance, nor is there guidance provided as to how compliance will be assessed. We strongly urge the State to develop and implement a comprehensive educational effort in order to broadly inform stakeholders of the standards by which settings are being assessed for compliance, the methods by which the State plans to engage in monitoring for ongoing compliance, and the timeline in which the State expects compliance to be achieved.

Also, we urge the State to make it easier to track the changes it makes to the draft STP as this process unfolds. A simple (but effective) method used by Tennessee in its draft process--one we wholeheartedly endorse to be used moving forward-is to use the "track changes" feature within MS Word. This simple

change will go a long way towards ensuring transparency in the process, and would cost the state nothing to implement.

17. The lack of detail throughout the plan limits stakeholder ability to comment on whether or how the State will assure that Kansas HCBS settings are complying with the Final Rule.

18. The State's compliance plan lacks a detailed action plan that clearly designates who is responsible and reasonable timelines for implementation. The plan states that compliance "will require revisions to individual HCBS waivers" but there are no details about what those revisions entail and no commitment or plan for engaging advocates, stakeholders and consumers in drafting those revisions or even a mechanism for communicating those revisions.

19. Page 6 & top of page 7, Remediation, Providers choosing to remediate These sound like fine ideas, but as with earlier comments, these ideas need to be fleshed out to move them from ideas to a plan. Questions include: When will technical assistance from the state become available? How? Who will organize the peer to peer meetings? When? Will there be fees or costs? Will there be any assistance with expenses for development of assistance? Production costs? Printing? Travel? Lodging? Etc. It would be helpful to have more description about how this is going to actually work.

Stakeholder Engagement and Collaboration

There were sixteen (16) comments regarding stakeholder engagement and collaboration opportunities. Five (5) reflecting increased engagement and collaboration; eleven (11) requesting more engagement and collaboration.	
Comment/Summary	**State Response**
Five (5) of these comments reflect increased transparency, communication, and responsiveness to stakeholders since the state changed direction in development of its transition plan.	KDADS is appreciative of the positive feedback concerning the STP engagement and collaboration opportunities. We look forward to continued collaboration.

1. We do applaud the state's change in direction following the submission on their initial statewide transition plan, on March 17, 2015. Since that time, the process has been more inclusive, transparent and responsive to stakeholder input. We are pleased to have representation on the Statewide Transition Plan Workgroup.

2. (Response to online feedback form question "What do you like about Kansas' Statewide Transition Plan?") It is presented as if it will be a collaborative approach with stakeholder involvement along the way. It assumes most sites are or can become compliant.

3. (Response to online feedback form question "What do you like about Kansas' Statewide Transition Plan?") I like the way the setup is with keeping communications with the families and giving them the option to provide feedback for services! It is important that the families are able to have some idea of where the services are at with their child or adult so they know what needs more work and showing ongoing progress in the areas needed!!

4. (Response to online feedback form question "What do you like about Kansas' Statewide Transition Plan?") I like that stakeholders and providers are allowed to be more involved in giving feedback

5. Recent FAQs from CMS have been extremely helpful in exploring how secure units needed to meet care requires of clients with dementia can come into compliance. The work of the Special Care Unit Subgroup reflects the willingness of the state to incorporate these suggestions. This type of collaboration speaks to the heart of person-centered care planning that Kansas is known for.

Comment/Summary	State Response
Eleven (11) comments requested or suggested increased and ongoing collaboration with stakeholders.	KDADS has specifically listed the strategy for ongoing collaboration in the STP. Please see "Learning Collaborative" added to Remediation Section.

1. (Response to online feedback form question "What else should Kansas keep in mind?") Kansas needs the providers to be a partner in this endeavor. Alienating them in these face to face interactions only creates distrust and wariness rather than a spirit of mutual problem solving towards the best interests of waiver recipients.

2. To strengthen the plan, I encourage expansion of workgroups to address specific transition plans for programs and services, particularly the sheltered workshops, group homes and day service programs. Again, the focus of these workgroups should be achieving program improvement, not simply rule compliance. While current State fiscal problems may not allow for additional funds, this should not keep a plan from being developed to address needed funds. It is disingenuous to move forward under the assumption that it will be budget neutral for the State and providers, particularly those providing employment services and supports.

3. As submission of the Transition Plan is only one step in the process, I encourage KDADS to continue to work with all stakeholders to move forward in this process with the end goal of improving individuals' lives, promoting independence and community integration. I look forward to stakeholder meetings in the future to work towards this goal.

4. The State needs to undertake a comprehensive assessment of the HCBS system. As of the date above, 16 states' STPs have received initial approval, and one (Tennessee) has received final approval. [State Association] has engaged with these 17 states regarding their plans; from our assessment, the major component missing in Kansas' process is the utter lack of meaningful engagement by the State with HCBS stakeholders. The State has attempted to craft its STP in a vacuum, eschewing regular and meaningful engagement with providers. Kansas is blessed with numerous stakeholders who possess both institutional knowledge about HCBS policy and a long-term commitment to engage in the policymaking process, and are eager to help the State craft a compliant STP. Our recommendation is that the State delay no further its onsite assessments, and take more deliberate steps to include HCBS providers and other stakeholders in the various aspects of the drafting process.

5. Opportunity for stakeholder engagement has been minimal. The State invited approximately 60 stakeholders to represent all waiver consumers and providers to 3-4 working meetings. Work was funneled through four contained workgroups which were not given the opportunity to collaborate even where issues overlapped. Discussions were restricted to defined and narrowly limited topics within each issue specific area. Participants at the meetings were asked to make recommendations regarding the State's plan without the benefit of having the draft plan as a reference.

   Further engagement with consumers and providers consisted of the State conducting bi-weekly conference calls, where the State provided minimal informational updates as the process moved forward. Questions about implementation, policy and process go unanswered, and without a communications plan, there is no opportunity for follow-up.

6. As the deadline for compliance nears and to assure successful implementation, it is critical that the State engage in on-going and open dialog with consumers, advocates and stakeholders. Those discussions most helpfully would be broad-based on the entire State plan, not limited to arbitrary, pre-determined categories, and minimal participation primarily from providers, but rather include participation from all waivers, with cross-age/cross-disabilities representatives, and facilitated by State staff.

7. Page 3, **Public Engagement**, first bulleted item
   There is a growing, ongoing need for effective, formal communication to affected individuals about the impact of the rule on their lives, potential changes and also options for choices and individual rights. There is a general lack of understanding on the part of beneficiaries and direct support staff about the rule and what its impacts might be. This might best be done by community agencies, but they will need assistance and guidance. Clear, consistent and accurate messaging is vital to do this properly, whether by the state, its MCOs or by community organizations.

8. **Public Engagement** While we have appreciated the opportunity to participate in numerous meetings, calls, and workgroups, these stakeholder groups did not have the information they needed to properly make data-driven decisions and recommendations. These groups repeatedly asked when this data would be available. However, the data never came. It is not sufficient to have meetings with stakeholders without providing effective information to ensure data-driven recommendations.
   One thing that was requested by CMS, but does not appear to be addressed in draft plan, are future opportunities for public comment. While there have been numerous opportunities where the State has engaged with the public, often there have not been very many consumers at the table. These engagements have often been rushed and not well thought through, almost as if some deadline creeped up on the State and they pulled together a "stakeholder group" to be able to say some engagement occurred.
   Other states have gone above and beyond to give the public more opportunities to participate and provide input. We strongly recommend that Kansas do this as well. Sometimes it is simple things like what Tennessee did by extending the public comment period to provide the public with more time to provide comments.

9. The state has attempted to engage concerned members of the public in various ways and deserves credit for the attempt. This commenter's perspective based on direct involvement with some engagement events, but certainly not all, is that events were announced on short notice and were somewhat chaotic and limited in utility because there weren't advance materials, draft documents, etc.
   provided to inform the concerned public and provide structure to the input events, themselves. Another general comment is that the engagement activities were too weighted towards providers and professionals and not enough on consumers. A very serious oversight was completely ignoring the direct support workforce. As far as I can tell, there was no effort targeted at this essential group; without whom no HCBS would work at all. Finally, comments and input from 2014 and 2015 should be published verbatim and in summary fashion and made available to concerned citizens and incorporated into this planning document.
   Again, the only public engagement mentioned in the draft plan in 2016 was for providers. This is not a flaw so much as an incomplete, too narrow focus.

10. **In-Person Opportunities for Information and Feedback:**
    A couple of general comments are in order. The first is that, again, comments & feedback should be published and made available for inspection so all concerned parties can see all of the data and also be better aware of how it may have been incorporated into the current draft plan. An additional

clarifying note would be the fact that the "draft plan" referred to in this section was the old, limited draft. The current draft plan was not written yet during the timeframes mentioned.

11. **Remote/Phone Opportunities for Information and feedback:**
    Again, in keeping with earlier remarks, this commenter participated in a number of, but not all, these phone calls and found they were of limited value as there wasn't a clear agenda, it was hard to hear due to too many people on the line and, finally, input was often very limited to only a small handful of participants.

Final Rule Interpretation

Comment/Summary	State Response
There were five (5) comments related to the state's interpretation of the final rule. Primarily these reflected the hope that Kansas' plan and transition will meet the intent of the Final Rule	KDADS agrees the STP should be a roadmap to achieve compliance. KDADS has amended to the STP to include additional details, data, project plans, and remediation efforts need for compliance. We share the view that this is an opportunity to fundamentally improve the community inclusion of our waiver participants and we look forward to partnering with all stakeholder to move forward together.

1. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") That the intent of the Final Rule will be lost in forms and misinterpretation.

2. (Response to online feedback form question "What else should Kansas keep in mind?") The intent of the rule, and that everything can't be perfect, since we are dealing with people. If an individual does not want what is viewed as a choice, then, that should be documented and not counted against the provider.

3. (Response to online feedback form question "What else should Kansas keep in mind?") The philosophy behind the settings rule should be the guiding force in this plan. Many Kansans were a part of the change and we have a proud history of person first programs in our state. This plan should be a roadmap for continued improvement of our programs.

4. I want to clarify, CMS put the final rules in place, I think that it would be important that they understand that CMS didn't pull them out of air. This is all part of the ACA that was implemented in May of 2010.

5. Until we see how the Kansas is interrupting the final rule it is difficult to make informed comments on the plan. Some states have posted the actual individual assessment document by location stating whether or not the setting was compliant and why. This would help us understand how the state was interpreting and applying the standards. We will continue to partner with the state as we move forward on implementation. Individual data to review on

site visits would be helpful.

Comments related to specific sections of the Statewide Transition Plan:

There were 68 comments received related to specific parts or components of the plan. Additionally, two (2) commenters provided comment on the State's Regulatory Crosswalk and Statewide Transition Plan Workgroup Recommendations, which are supporting documents to the Statewide Transition Plan.

Transition Plan Section: Purpose	
One (1) comment was received related to Purpose	
Comment	**State Response:**
Purpose: One of the goals of the transition process should be to reduce risk for all involved, including HCBS participants, providers, MCOs, and the State. The draft plan describes that "states are required to analyze all HCBS settings where HCBS participants receive services to determine current compliance with the Rule." We are concerned the methods as described in the draft plan will not accomplish this stated goal, causing risk to all of the groups listed above. While it may not be a requirement for the State to do an onsite-assessment of each setting, that is the only way to truly know if each setting is truly compliant. Data and transparency in process are two important components to help reduce risk for everyone involved.	The state has added additional details and provided increased clarity.

Transition Plan Section: Systemic Assessment	
There were 20 systemic assessment questions; three (3) comments regarding regulation revision; four (4) policy review; five (5) lease agreement; four (4) MCO role; four (4) uncategorized. Though there are shared themes, some comments are unique and remain separate for response.	
Three (3) comments were received related to needed regulation revision.	
Comment/Summary	**State Response**
1. Changes to the ACH regulations to incorporate appeal rights – will utilize the reg. process. – check the status? Who is doing that?	Comment incorporated. Added KDADS as state resource. Added KDADS, ACH, and ACH participants as stakeholders. Moved up completion date to 2/1/2018.

2. Page 3, **Systematic Assessment,** third paragraph First off, consistent with the discussion, above, the IDD regulations also need to be "cross-walked" with state self-direction laws. This is important in general and, specifically, this is important because the decreasing trend in numbers of IDD Waiver participants that self-direct is problematic for compliance with a rule that clearly includes self direction as an important element of HCBS final rule/most integrated setting compliance. Later in the same paragraph a term "culture change" is held up as evidence of compliance by Assisted Living Facilities and other "Adult Care Homes". Further definition, explanation, or examples must be given to clarify whatever this term might mean. Certainly, there is much more to the requirements than just "locks on doors" and when, and with whom, one wishes to eat a meal in the facility. Other "most integrated" requirements include socializing when, where and with the individuals of the resident's choosing. Other requirements state that a resident has right to choose to participate in the community as much as she might desire and to use transportation to go wherever she might wish to any destination of choice. Finally, employment is also an element included in the federal regulations. These elements are really examples of required "community integration"; integration that goes way beyond eating and doors that are lockable from the inside by the resident (but that the facility can enter in any case as it deems necessary).	KDADS has added the following: 1. Additional language on self-direction regarding in increasing such opportunities when amending the waivers. 2. Culture of change reference removed. KDADS has also cross walked current regulation with final rule requirements and identified gaps.
3. **Systemic Assessment** While the details are listed in the crosswalk document of the References/Resources section, the plan itself does not include much detail on the specific regulations that require changes with a timeline for each change. It appears this was requested by CMS to be included in the plan itself with details about what changes are required and the action steps and timeline to complete them (including opportunities for public comment). We would note that Tennessee's plan does have this level of detail. Making this change would both follow CMS's requirements and the effective practices of other states, like Tennessee.	KDADS agrees. The policy and regulation section has been updated with more specific data.

Comment/Summary	State Response
Four (4) comments were received related to policy review, requesting clarification around policies that have been or need to be updated and where they can be found.	1. CMS did send a letter indicating a halt to the residential policy. However, they later rescinded this letter and allow for the implementation of this policy. 2. KDADS has added increased specificity in the policy review section. 3. Comment noted and incorporated in the STP. 4. Language has been updated. PCSP policy has not been updated and the error has been corrected. The residential bill policy is available at the following location: http://kdads.ks.gov/docs/defaultsource/CSP/HCBS/HCBS-Policies/idd-residentialpolicy-9-1-2016.pdf?sfvrsn=0.

1. Page 4, 2nd paragraph — The plan states that the Residential Policy has been revised. It's my understanding that CMS received numerous questions and concerns regarding the changes to the policy and has subsequently requested the state halt implementation of changes to the residential billing policy until after a waiver amendment has been submitted and approved. This information should be noted or added to the plan.
2. Pg. 4 Systemic Assessment
   Current Language: All IDD policies are in the process of being updated
   Comment/Proposed Change: Please confirm that in addition to the IDD policies mentioned, Inclement Weather and TCM, that the Conflict Free Case Management and Medical Fragility for IDD policies as well as applicable regulations such as Article 63 and 64 will be revised to conform with the CMS requirements.
3. Page 4, **Systematic Assessment,** second & third paragraphs.
   While Kansas is in the process of reviewing all polices related to, and affected by, the rule, please review state laws giving folks the right to self-direct and incorporate these requirements into all HCBS Waivers, regulations, policies, contracts, provider agreements, including, in particular, the FE Waiver.
4. It is difficult for I/DD entities to comment on policies that are reportedly being updated but not available for review.
   The draft states that "the Residential policy and Person-Centered Planning policy have already been revised." We cannot locate these updated policies, beyond the 9/1/16 Notice of Billing Policy Change, in the HCBS Draft/Final Policies section on the KDAD's site. If these policies are available, we would appreciate being able to review and comment on them.
   The policies that are identified as in process for completion in 2017 for I/DD we would like to see a more defined anticipated role out timeline for, as 2017 is not further defined.
   As the review period will close 12/28/16, with specific policies not accessible that we can locate, and others identified as not being targeted for completion till 2017, we find specific commenting not able to proceed from our end.

Five (5) comments were received related to lease agreement requirements	
Comment/Summary	**State Response**
1. Pg. 4 Systemic Assessment **Current Language:** The state licensed facilities would be required to have a lease or written agreement having the intent of the landlord tenant act **Comment/Proposed Change:** Please confirm that the policy or regulatory language will delineate the required elements of the lease agreement between applicable providers and participants; Please confirm that applicable providers will be required to submit the model lease agreements to KDADS for review and approval in advance of deployment; Please confirm that both provider owned and provider controlled settings will be subject to the requirements.	Confirmed that regulatory language will delineate required elements of the lease agreement. KDADS does not expect to review every lease agreement. Rather we believe such agreements could be provided at the time of KMAP enrollment to provide evidence the standard is met. 3. Confirmed all HCBS settings will be subject to this requirement.
2. Page 4, **Systematic Assessment,** top of page. Adding to resident rights under the Landlord/Tenant Act is a good idea. It needs to be clear, though, that the requirement of the rules is that if there isn't an actual lease that meets the requirements, then any "agreement" must mirror these same rights as if under a lease. The technical requirements are more stringent than just meeting the <u>intent</u> of the KS Landlord/Tenant laws, the legal requirements must actually, technically, be met whether in a "lease" or an "agreement".	Agreed.
3. We believe the State of Kansas *currently* ensures that when an individual chooses a home and community based setting the individual has made an informed choice among options. The choices made by our families/guardians/clients are based on the services provided, **not** on a specific location for either residential or day services. We do not understand the degree of concern about provider owned or controlled homes and day service facilities. We agree with the Federal HCBS rules that there should **not** be a mandated separation of housing and service. Our clients/families/guardians are far more concerned about the quality of the services, rather than a specific address. Our lease/contracts provide that if we are not satisfied with either residential or day services, we can change within a 30 day period without recrimination from the provider. Each individual client lease signed with Life Centers of Kansas is a legally enforceable agreement outlining tenant responsibilities and providing protections that address eviction processes and appeals	KDADS is unsure of the specific ask here.

comparable to Kansas landlord tenant laws. Any client may terminate the lease within a 30 day period. Requiring providers to separate the ownership of housing and services will further limit client choices. During the annual assessment and service plan meetings every I/DD client is asked whether they are happy and satisfied with their living arrangement. When clients believe their group home provides maximum integration into the community at large, what benefit is gained by requiring the provider to separate ownership of facilities and services? The Federal Rules and Regulations for HCBS clearly state "our decision not to require separation of housing and services..." The Kansas HCBS Programs Transition Plan Settings Analysis has only increased the uncertainty among clients and their families/guardians as to the long-term security of their living arrangements. Our loved ones have many challenges (none of which are their fault) as they try to live and work successfully in our communities. A most important aspect of successful community living is a safe and secure home. We believe the selection of residential services should be based on the person centered plan for each client - the benchmark for determining the client's wishes and needs - not on whether the service provider owns or controls the property in which services are provided.	
4. While CMS is clear that protections under landlord tenant laws be incorporated into lease agreements, the members of the statewide Transition Plan Workgroup have been told the "KDADS Legal Department is working on it." It will be vital for providers to see and comment on this type of language before it is finalized. Protecting the rights of clients is of great concern, however, being able to execute a safe and timely discharge when a client's needs cannot be met or if the safety of others is in jeopardy, is of paramount importance.	Agreed. Public comment is part of the HCBS policy process.
5. **Consumer Protections in Leasing - Right to Rent:** Kansas' current residential care home requirements do not adequately address the consumer leasing protections requirements set forth in the HCBS final rule. The Kansas Long Term Care Ombudsmanman program consistently reports that a high percentage of complaints that its staff address are from older adults faced with involuntary discharge. For older adults including those who need a nursing home level of care or who	Agreed. The STP sets forth the project plan to afford these protections to all HCBS participants.

have advancing dementia, and who are given notice of their involuntary discharge, a facility is required only to give a 30-day notice period. This presents them with an unrealistic challenge of finding and evaluating good quality care providers, a threat to their health and well-being, and often results in transfer-trauma, especially for an elder whose cognitive functions are not intact. Consumers in other settings such as public housing have a statutory protection and presumption of "right to rent" which acknowledges a greater level of need and protection for stable housing. Older adults should have this same level of protection.	

Four (4) comments were received related to the MCO Role in the systemic assessment	
Comment/Summary	**State Response**
1. Page 4, **Systematic Assessment,** fourth paragraph. Having the MCOs ensure compliance with the "rule" and provide ongoing training is of concern. They have a massive conflict of interest and they lack knowledge and experience; coming from a medical model, health insurance background. People with disabilities and organizations such as CILs or the Self Advocates Coalition of KS would be much more knowledgeable and believable experts, especially for "ongoing" training; case in point, all of the MCOs were apparently fine with the over-medicalized FE Waiver regulations that completely forestalled self-direction. None have mentioned the drop in self direction or numbers of MFP beneficiaries dropping. The MCOs are fine organizations that care about those they serve, but let the experts in "most integrated settings" take the lead in guiding and providing training in this arena.	KDADS has added the language regarding KMAP enrollment and final settings rule compliance.
2. Pg. 4 Systemic Assessment **Current Language:** Language will be added for Care Coordinators from Managed Care Organizations to report to the State any noncompliance issues related to the Rule. **Comment/Proposed Change:** Please confirm that a process will be developed collaboratively with the MCOS with regard to reporting provider non-compliance to KDADS or other applicable entities.	Confirmed. Details added.

3. Pg. 4 Systemic Assessment **Current Language:** The Managed Care Organizations (MCO) will incorporate language for the Final Rule to ensure any HCBS providers meet the requirements of the Rule when credentialed by the (MCO). **Comment/Proposed Change:** Please confirm that KDADS will publish and maintain a list of providers by waiver that are approved to offer services under the waiver and are deemed to be compliant with the Rule so that the MCOS are clear with regard to which providers are eligible to continue offering services to waiver participants.	Confirmed. See monitoring section regarding ongoing compliance activities.
4. Pg. 4 Systemic Assessment **Current Language:** Kansas will require Managed Care Organizations to provide ongoing training on person centered service planning and HCBS setting criteria. **Comment/Proposed Change:** Please clarify whether the State intends the training to be specific to providers and/or members. Please delineate the role of the CDDOs with regard to educating IDD providers related to the various components of the Rule	Additional details on "Learning Collaborative" added to remediation section.

Four (4) comments were uncategorized Systemic Assessment comments	
Comment/Summary	**State Response**
1. Page 3, **Systemic Assessment**, second paragraph This paragraph mentions that various, individual HCBS Waivers will need to be amended to comply with the "Rule". Amended, why? How? Where? When are these amendments planned? This lack of any detail is of concern. This is particularly true given that the if the FE Waiver was reviewed clear back in March for compliance with the final rule on most integrated setting, then there was a glaring oversight. The FE Waiver only includes agency-directed, medicalized services and state self-direction statutes and rights were completely ignored. Because of this, as of this date nearly 8 months later, the provider contracts and requirements for the FE Waiver do not allow for self direction, per se, by FE Waiver participants; as is their right.	Additional details added.
2. Pg. 4 Systemic Assessment **Current Language:** Contracts affecting HCBS were reviewed and when renewed in 2017 will incorporate language to comply with the Rule. This includes contracts with Managed Care Organizations, Community Mental Health Centers, Community Developmental Disability	Commented noted.

Organizations (CDDOs), Aging and Disability Resource Centers (ADRC), Financial Management Services (FMS), and CDDO affiliation agreements. **Comment/Proposed Change:** Please consider removing the requirement for affiliation agreements between IDD providers and CDDOs to improve member choice and to allow better utilization of existing provider capacity. Providers are responsible in maintaining documentation, who will be responsible in assuring they are meeting the standards.	
3. Status of policy manual updates? Who is doing this?	HPE via KMAP is doing this. Additional information added.
4. Discharge Appeals The State plans to develop new regulations regarding involuntary discharge appeals. Although we do not have specific regulatory language to comment on at this time, we want to take this opportunity to outline our primary concern with appeals of involuntary discharges from adult care homes. Almost all involuntary discharges are made for two reasons: failure of the resident to pay for their care at the adult care home, or the care needs of the resident have increased to the point that the adult care home is no longer able to meet those needs. We understand why the State wishes to establish appeal rights for adult care home residents. However, if appeal rights are established it is imperative that the facility be able to carry through with the discharge while the appeal is pending. Delaying the discharge imperils the resident, others around the resident and the facility itself. Landlord Tenant Act Our concerns with landlord tenant act requirements are similar to those with involuntary discharge appeals. The Kansas Landlord Tenant Act was not written with highly regulated health care settings in mind. Any regulations developed by the State must not interfere with any regulatory obligations of the facility, and must not prohibit or delay involuntary discharges of the resident when based upon the list of allowable reasons for discharge established by current Kansas statute and regulation.	

Transition Plan Section: Settings Assessment	
There were 21 total comments regarding the Settings assessment; two (2) related to the Settings Analysis document, nine (9) related to settings assessment data; three (3) comments regarding the onsite assessment process; six (6) regarding onsite assessment timelines; one (1) comment regarding "Additional Settings Assessment Measures." Though there are shared themes, some comments are unique and remain separate for response.	
Two (2) comments were related to the Settings Analysis document	
Comment/Summary	**State Response**
1. Page 4, **Settings Assessment** This condensed, very summarized document, called "Settings Analysis", of broadly different settings with either "state review" or "licensure/certification" review is more a broad listing of major headings than an "analysis". There is just not enough detail here. The plan that Tennessee submitted and that has been approved has detailed analysis and descriptions of every single setting in the state, setting by setting. This level of work is needed to know with any specificity whether any given entity is in compliance. At a minimum, if this is meant to just be a shorthand chart, some more statistics or description of what is going on within these settings is needed.	Agreed. Additional details have been added.
2. Pg. 4 Setting Assessment **Current Language:** Setting types in Kansas that describes the different settings and estimated level of compliance for each at the beginning of planning for and implementation of the Rule. **Comment/Proposed Change:** Please provide a copy of the settings analysis for the MCOs to review and support the State's efforts in provider education and contingency planning for ongoing member services should providers fail to meet the requirements by an established deadline. For example, , Adult Day Services currently rendered in a nursing facility.	Unclear on the specific ask. The analysis is provided in the STP.

Comment/Summary	State Response
Nine (9) comments were related to settings assessment data, primarily requesting the data be shared.	Agreed. Additional details have been added.

1. Page 4 & 5, **Provider Surveys**
   This sounds like a lot of effort went into this process and a good result obtained in terms of responsiveness. Good work! However, as with the above comment, where is the detail? Since 2015, where is the data analysis and reporting on what was found after reviewing all of the almost 1,000 returned surveys?
2. **Settings Assessment**
   The plan does not include any data on how many settings are compliant and how many are not. This is a basic measurement that must be established prior to Kansas implementing its transition plan. It would also be helpful to know where Kansas is at within each of the four listed categories.

   The State is planning to validate the assumption of compliance based on a statistically significant random sample of providers who have attested they are complaint. The plan does not include any information about what happens if their assumption is validated, or worse if it is not. Clearly providers who are not compliant will be given a chance to become compliant, but we do not know anything about the rest of the settings that have not had anything more than a self assessment. There may or may not be any responses to the consumer survey. This over reliance on providers conducting their own self assessment neither ensures effectiveness or accountability. At worst it encourages providers to give less than accurate information as part of this self assessment. Clearly this is creates a risk if they make it all of the way to the part of the process where the MCO compliance review and is found not to be compliant. There is an even larger gap in the plan regarding the group of providers who did not reply to either of the opportunities to do a self-assessment. While again the State is conducting onsite reviews for a "statistically significant" sample, it is not clear what the assumption is they are validating with the sample. As it is not in the plan, is the assumption that providers that did not complete the self-assessment are compliant? This creates a significant amount of risk for all parties. As we mentioned earlier, the surest way to reduce risk and ensure compliance is to conduct onsite assessment for every setting.

   While we appreciate the State is soliciting the input of HCBS participants through a survey, it would be better to know how many responses were received and what additional activities were conducted to help consumers understand why they received the survey and how it will be used. Currently we only know that the State sent out a survey and also posted it online. That does not ensure effective engagement of consumers. Several participants we have talked to were uncertain about it and were worried they might lose services if they answered it in a way that would indicate the setting was not compliant.

   Also, updates on the global status of the onsite assessments the State is conducting would be helpful for everyone involved to know where the State is in this process. Has the State completed the assessments they indicated in the draft plan would be completed by now? Regular monthly updates posted on their website and distributed to their email list would be one way to do this.

3. Regarding the assessment process – what is the "universe"? How many providers were given the opportunity to take the attestation survey or how many HCBS providers are there?

4. Can the State make more clear the compliance levels? What do they look like?

5. There is a need for transparency by the State in what data is being gathered with the assessments.

6. Can we see provider assessment compliance data?

7. Page 5, Onsite Assessment Process, third paragraph
   The results of the valid, statistical analysis need to be published and made available to interested parties. These results could be of very great interest and the information could inform other parts of the plan or help highlight other issues to address.

8. Page 6, Additional Settings Assessment Measures, first – third paragraphs
   As with the above comments, what are the results of the consumer surveys? Results, findings, good things & problems need to be published so as to better inform concerned parties and commenters on the draft document. In the same vein, what national core indicators? There are several different core indicator models addressing different issues. A few words about the NCI referenced and also what parts were incorporated and what conclusions / results were obtained would be of immense importance and help with analysis by commenters and concerned parties.

   Likewise, results of the most recent quarterly face-to-face interviews with consumers of all waivers are also needed for the public's information and cogitation.

   Finally (third paragraph), what global quality measures? These need to be listed in the text of the document or included in a footnote so it can be ascertained what they are, how they differ between waivers and how they inform ongoing quality assessment and quality oversight of the waivers, especially as they relate to "Final Rule" compliance.

   The State either does not have or is not utilizing the resources to assess first-hand the compliance of all settings. Not all settings are visited, nor has the State identified/reported the number or percentage of settings visited. The State recruited and minimally trained "volunteers" to perform onsite assessments in only a sample of facilities. Given these issues, it is difficult to have confidence in the assessment and compliance determination process. The plan states Kansas will rely on the survey process to monitor ongoing compliance. But currently surveys are not done annually, as required, but averaging 18+ months between annual surveys, putting residents at risk and making the compliance assurance process unreliable.

Three (3) comments were regarding onsite assessments	
Comment/Summary	**State Response**
1. Can the State clarify what is a statistically valid sample size regarding the number of settings selected for onsite visits (page 5, Onsite Assessment Process, end of paragraph 1).	This has been edited.

2. Page 5, **Onsite Assessment Process,** first paragraph It is good that some stakeholders were involved, but a question must be raised as to those that were not included such as FE, TBI and PD consumers. Neither FMS providers, nor CILs, nor Consumer Run Mental Health organizations were included. It was probably assumed, incorrectly, that these entities didn't have a stake and maybe weren't interested. The tool (Biblio #7) uses too restrictive definitions and standards for compliance of sometimes sweeping requirements. Input from the excluded entities would likely have caught this problem earlier.	The state has attempted to get a variety of stakeholders involved. To this end the tool was developed with a variety of stakeholders and the final tool went out for public comment. After public comment changes were made as necessary.
3. Page 5, 2nd paragraph — The plan states that onsite assessments will be completed by teams consisting of one state staff paired with volunteers. The volunteers were trained and received guidance on conducting assessments by KDADS and Wichita State University on July 7, 2016. The onsite assessment for this organization was conducted by one state staff. An explanation needs to be given as to why a team of one state staff paired with volunteers is not being utilized.	The state used teams as volunteers were available and pulled from the trained pool of personnel to complete the assessments.

Comment/Summary	**State Response**
Six (6) comments were received related to settings assessment process timelines. Comments state that assessment deadlines have not been met and/or that time frames are out of date and need revised.	This section has been revised. Additional details have been added and language has been updated to mirror the process that occurred.

1. The plan mentions that those who completed the provider surveys should have received feedback, however I am not aware that any feedback was provided to those who completed the surveys.

2. The Transition Plan indicates that, "After reviewing the data from the attestation surveys, all HCBS providers will be contacted by mail notifying them of their level of compliance with the Rule and next steps" (pages 4- 5). [PROVIDER] did not receive any such formal notification from any department of the State of Kansas and strongly suspects other providers failed to receive formal notifications as well.

3. Further, the timeline for completing onsite assessments is already out of date (page 5). The Plan states that, "Those settings requiring Heightened Scrutiny will have onsite assessments during October and November 2016." [PROVIDER] was contacted by a representative of the State of Kansas via email on Friday, December 16, 2016 to set up an onsite assessment of [PROVIDER] services. The representative requested that the assessment be conducted the following Thursday, giving [PROVIDER] less than a week's notice for the assessment. [PROVIDER] has requested that the assessment be scheduled in early January to allow adequate time for preparation. However, preparation for the assessment is difficult as the only instruction received from the State of Kansas regarding the assessment is as follows:

   "[Provider] has been randomly pulled to be reviewed for the onsite assessment for the CMS Final Setting Rule. This is only for persons receiving Home and

Community Based Services (HCBS) funding. Persons conducting the onsite may consist of KDADS staff, MCO staff, volunteer groups (family, consumers, citizens, etc.), Community Service providers, Community Developmental Disability Organizations and self-advocacy groups. Teams of 1-3 people will be constructed and will be working together to complete the onsite visit. The team will be completing:

- Documentation review of policies and procedures related to the Final Rule
- Person-Centered Service Process or Plan review
- Consumer Interviews
- Onsite Observations

Please have this information available and accessible for the team. ALL Day Site/Daycares locations will need to be reviewed. The team will begin the review at _____ location at time on date. Thank you"

Clearly, the above items indicate that the Transition Plan, as presented, contains inaccurate information. The Plan should be amended to correct such inaccuracies.

4. Page 5, 4th paragraph — The plan states that onsite assessments began the week of July 25, 2016 and will be completed in October of 2016. It also states that those settings requiring Heightened Scrutiny will have onsite assessments during October and November, 2016.
   According to information on page 8 of the plan, settings that require Heightened Scrutiny include Sheltered Workshops and Day Programs. This organization has both a sheltered workshop and a day program. The onsite assessment was held December 15, 2016 with one day's notice. I feel it should be noted that the state is behind on the timeline which is outlined in the plan and an explanation as to the reason for the delay.

5. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) The state is already not meeting their deadlines with regard to on-site assessments.

6. Onsite Assessment Process (As stated on page 5 of the Transition Plan)
   Onsite assessments began the week of July 25, 2016 for providers who attested to being fully compliant with the Rule and will be completed in October of 2016. Reviews consist of observation, record review and interviews with individuals and staff at the setting using the standard tool developed by workgroups. Those settings requiring Heightened Scrutiny will have onsite assessments during October and November 2016. For providers receiving onsite assessments, provider notification of compliance status will occur within 30 days of the conclusion of onsite reviews. The state will schedule meetings for each provider setting type that is partially or non-compliant with the HCBS Final Settings Rule to discuss the issues of non-compliance and answer questions for providers. The State will provide ongoing technical assistance to providers during the process.
   Providers who received onsite visits both for heightened scrutiny and those attesting to be fully compliant, have not yet received feedback from their visit. This lack of response has caused providers anxiety, uncertainty and concern about their "next steps" in the compliance process.

One (1) comment was received regarding “Additional Settings Assessment Measures”

Comment/Summary	State Response
1. Page 6, *Additional Settings Assessment Measures,* fourth and fifth paragraphs How do the deficiencies and the survey process relate to "most integrated setting"," Final Rule" requirements? There needs to be some explanation. These three sentences contain ideas that need to be fleshed out.	The work plan provided in this section will flesh this out. These were direct observations and suggestions from the stakeholder workgroup.

Transition Plan Section: Remediation	
There were ten (10) comments related to the Remediation section; one (1) comment regarding provider support for remediation; eight (8) comments regarding providers unable, unwilling, or choosing not to comply; one (1) uncategorized comment. Though there are shared themes, the comments are unique and remain separate for response.	
There was one (1) comments regarding provider support for remediation	
Comment/Summary	**State Response**
1. Page 6, 7th paragraph — The plan states that providers will be invited to participate in a learning collaboration that allows peer-to-peer learning, including sharing information and ideas and receiving information or training that may be beneficial as they consider ways to meet the requirements of the Rule. This organization supports this initiative and feels it will be beneficial to all providers participating.	Thanks! Additional details have been provided in remediation section.
Eight (8) comments were received related to providers unable, or not choosing, to comply with the Final Rule	
Comment/Summary	**State Response**
1. Page 7, **Remediation,** *Providers unable, or not choosing, to comply* This is a thorough discussion. The only thing I would add is that the choice of an individual should include settings opportunities available in the state in case someone would be willing to move (This has been the case for some MFP related folks) to another part of the state for an opportunity. Referrals only nearby to current, limited locations may not be sufficient to encompass all of the possible choices.	Agreed. Suggestion added.

2. Pg. 7 Providers unable to comply or choosing not to remediate **Current Language:** Providers that believe their setting cannot comply or the provider who chooses not to come into compliance will be required to submit a plan to transition individual into a compliant setting prior to the March, 2019 compliance date. **Comment/Proposed Change:** Please consider revising to the following: Providers that believe their setting cannot comply or the provider who chooses not to come into compliance shall be required to submit a termination notice to KDADS and the no later than October 1, 2018 to ensure an appropriate transition of all affected participants prior to the March, 2019 compliance date. Such providers shall work collaboratively with MCOs and KDADS to ensure transition of waiver participants at the earliest possible date after the provider has notified the MCO and KDADS of its decision to terminate participation as a Waiver provider. Such Providers shall ensure that an individual or guardian receives a minimum of 180 days notice of its decision to terminate participation as a Waiver provider, to be issued through certified mail, to inform the individual or guardian of the costs for services for which individual or guardian will be responsible should the individual or guardian choose to continue services from such provider or to facilitate adequate time to convene a care planning team, make an informed choice and a select an alternate provider complaint with the Rule.	Agreed. Revision made as requested.
3. Pg. 7 Providers unable to comply or choosing not to remediate **Current Language:** Plans will include TCMS (where applicable), KanCare Ombudsmanman, MCO Care Coordinator, and State Licensing and/or Quality Review staff. For Individuals receiving IDD services this will also include the CDDO, **Comment/Proposed Change:** Please consider revising to the following: Transition Plans will incorporate feedback from TCMS and CDDOs (where applicable), KanCare Ombudsmanman, MCO Care Coordinator and other staff as applicable, and State Licensing and/or Quality Review staff but will reflect the preferences and needs of each participant affected	Agreed. Revision made as requested.

4. Pg. 7 Providers unable to comply or choosing not to remediate **Current Language:** If the participant chooses to stay in a noncompliant setting, the TCM, MCO Care Coordinator and State staff will provide information to the individual, their guardian or representative that HCBS funds ill not be available should the person remain in a noncompliant setting. **Comment/Proposed Change:** Please consider revising to the following: If the participant chooses to stay in a non-compliant setting, the MCO will issue a NOA advising the member or guardian/representative that services provided by the non-compliant provider will not be authorized after March, 2019, and will terminate any applicable authorizations with date ranges that exceed March, 2019 . If the only waiver services that a participant is receiving is being rendered by the noncompliant provider, the State staff, TCM (as applicable) and MCO Care Coordination staff will advise the participant of the potential impact to ongoing eligibility for the waiver. The noncompliant provider must issue and obtain a fully executed informed consent from the participant or guardian within 90 days of the March, 2019 compliance deadline restating that the provider is no longer eligible to provide the applicable services, that member has the ability to select a compliant provider at any time by calling the MCO, Ombudsmanman or other State staff, delineating the detailed the costs per service and costs per month applicable to the individual for ongoing services that the member or guardian will be responsible for paying after the March, 2019 deadline, and other information as directed by the State.	Agreed. Revision made as requested.
5. Pg. 7 Providers unable to comply or choosing not to remediate **Current Language:** Providers will notify the state in writing of their plans, provider updates on each individual, the plan for the individual's transition, and notify the state when the transition is completed. When the transition is completed, the provider must notify the state of the new location of the individual. Plans will also be distributed to the MCO and CDDO (where applicable) **Comment/Proposed Change:** Please consider revising to the following: The MCO will transition plans for each affected participant to the State provide updates on each participant's transition plan at an interval and through a means to be collaboratively determined until the transition is completed and including any change of address as may be applicable,	Agreed. Revision made as requested.

6. Pg. 7 **Current Language:** Providers unable to comply or choosing not to remediate 8) Care coordinators will follow up with the individual within 30 days of the transition to assure the individual is satisfied and has adjusted to the change in setting. State quality and licensing staff will also follow up during transition of the individual. **Comment/Proposed Change:** Please clarify whether this applies to individuals that choose to continue receiving services from a noncompliant provider.	This applies to all individuals receiving HCBS waiver services.
7. 30 days to transition from provider not complying may be too short. 60 may allow for a better transition.	Agreed. Revision made as requested.
8. Identify who is responsible to provide a notice of action to the participants in the non-compliant setting of the status and next steps	Added clarity. The MCO is responsible and will provide next steps.

One (1) Remediation comment is uncategorized	
Comment/Summary	**State Response**
1. **Remediation** The steps we suggested above should include an update on how many sites require remediation. It should also include actions the State will do to communicate to all stakeholders where they are and what the plan is to have as many settings as possible assessed and compliant. Another major concern is the distinct possibility Kansas ends up without adequate capacity of complaint settings for a category of service or within a geographic area. The plan does not appear to have any specific components to address this concern.	Added clarity and discussion on this topic.

Transition Plan Section: Heightened Scrutiny	
Two (2) comments related to heightened scrutiny. Though there are shared themes, the comments are unique and remain separate for response.	
Comment/Summary	**State Response**
1. Heightened Scrutiny We are concerned that the wording of the transition plan puts every state licensed facility under heightened scrutiny. Subjecting all licensed settings to heightened scrutiny is both unnecessary for adult care homes, and a waste of already limited time and resources. Page 8 contains the following statement: "Settings in Kansas that require Heightened Scrutiny to be deemed compliant with the Rule include: State Licensed Facilities: including Assisted Living, Residential Health Care, Home Plus, Special Care Units, Sheltered Workshops, Day Programs and Adult Care Homes attached to a Nursing Facility." The wording on p. 8 reads as though State Licensed Facilities in general are subject to Heightened Scrutiny, that state licensed facilities include all of the specific settings listed, plus a special nod to any adult care home settings listed that are attached to a nursing home. If the wording in the above statement reflects the actual intention of the State, we strongly disagree with the decision to automatically put any state licensed facility into the Heightened Scrutiny category. As noted several times in the transition plan, adult care home regulations cover all but a few necessary issues, and the state plans to address these issues through statutory and regulatory changes in the next two years. As long as an adult care home setting does not run afoul of physical location requirements, there is no reason for the adult care home to fall under heightened scrutiny.	Language has been changed to read: Settings in Kansas that **may** require Heightened Scrutiny to be deemed compliant with the Rule **could** include: Assisted Living Facilities, Residential Health Care, Home Plus, Special Care Units, Sheltered Workshops, Day Programs and Adult Care Homes attached to a Nursing Facility.
2. **Heightened Scrutiny** At this point, the State appears to be unclear how it will interpret the settings rule in regards to these "heightened scrutiny" settings. The plan indicates onsite assessments were to be conducted in October and November and the providers will be notified within 30 days, however, we have not heard if that happened and what the outcome was for those settings.	The state did not meet the October and November timeline. The state has added additional details and updated timeline.

Transition Plan Section: Monitoring	
There were eight (8) comments regarding the Monitoring section of the plan; five (5) regarding MCO role in compliance monitoring and three (3) uncategorized Though there are shared themes, the comments are unique and remain separate for response.	
Five (5) questions were related to the MCO role in monitoring compliance	
1. Pg. 9 Ongoing Monitoring **Current Language:** Before providers can be reimbursed for HCBS services, MCOS will review compliance with the Rule when they credential providers **Comment/Proposed Change:** Please consider revising to the following: KDADS and the MCOS will effect terminations for those providers that issue notice of termination due to an inability to comply or a desire not comply with the Rule. For those providers that initiate a remediation/transition plan or determine themselves to be fully compliant, and for which KDADS determines by January, 2019, based upon the then current status of compliance, that full compliance with the Rule cannot be achieved by March 2019, KDADS will issue termination notices to such providers and will copy the MCO and other applicable agencies so that terminations can be affected across the system of care. KDADS will publish a final list and maintain a list ongoing of approved and fully compliant providers by waiver for use by the MCOs in credentialing/recredentialing activities. Providers that have voluntarily terminated participation in any waiver program or have been terminated by KDADS for a failure to comply with the Rule will be ineligible to receive payment for applicable services rendered to a waiver participant after the March 2019 effective date of the Rule. Providers not reflected on the final list published and maintained by KDADS will be ineligible to be recredentialied by the MCOS and ineligible to receive payment for applicable services rendered to waiver participants after the effective date of the Rule.	Comments incorporated.
2. Page 9, **Ongoing Monitoring**, First & second bullets It would be a best practice to include others besides the MCOs or the state. There are individuals and organizations that have deep knowledge of community integration and the most integrated setting. This would balance the state and MCO officials that tend toward the medical model and protection without adequately considering rights and dignity of risk. State laws giving disabled individuals rights have flat been ignored despite much input. Examples include the regulations for the FE Waiver not allowing for self-direction per state statute, MFP numbers dropping and decreasing numbers of individuals self-directing in general.	The state disagrees. The state has authority and statutory responsibility to determine who meets provider requirements.

3. **Ongoing Monitoring** The plan indicates that before providers can be reimbursed for HCBS services, Managed Care Organizations (MCOs) will review compliance with the Rule when they credential providers. What will this review entail and when will this process begin? While going forward this is an ongoing process, the first compliance review will be an important step to ensure providers can continue to be paid and participants can continue to receive services. Also, if MCOs have a responsibility to ensure that payments they make to a provider are compliant with the rule, what happens to an MCO if they pay a non-compliant provider? Will the MCO have to reimburse the State or Medicaid if this happens? Where is the accountability? It will be best for everyone involved if this compliance review process can be completed as quickly and transparently as possible.	This process will be achieved via KMAP during enrollment. This process will be required to meet managed care rule requirements.
4. The role of the MCO's should be addressed more thoroughly in this plan. Reliance on MCO to verify compliance with the Rule when credentialing providers is not an effective tool. Credentialing documents only require providers to check a box stating they are in compliance with all rules. The providers may not even understand or be aware of the requirements and MCO's do not do onsite reviews to ensure compliance. Adding language for MCO's Care Coordinators to provide reports of non-compliance issues is important but Care Coordinators may only see consumers one time a year; this is not sufficient for adequate oversight. Training MCO staff on person centered planning is commendable in writing but extremely difficult in reality. Due to the high turnover rate, reliance on MCO's to facilitate person centered planning is not practical. As a service provider, I am constantly providing education to new Care Coordinators and almost weekly I respond to consumer concerns because a Care Coordinator made a decision for the consumer because they believed it was in the consumer's best interest. The plan must address how person centered planning will be implemented without the inherent conflict of interest that currently exists with MCO's developing plans.	Additional details have been added.
5. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") Reliance on MCO's to ensure that HCBS providers meet requirements when credentialed isn't sufficient. Credentialing is done on	Additional details have been provided.

paper only, no site visits occur to ensure provider meets requirements. Additionally, KanCare has been in existence for years and MCO staff still don't have a grasp on program rules and CMS regulations. With their high turnover, requiring regular training on person centered service planning and HCBS criteria isn't sufficient to ensure integrity and compliance.	

Three (3) Monitoring comments are uncategorized	
Comment/Summary	**State Response**
1. Page 9, **Ongoing Monitoring,** 4th bullet This doesn't make sense. NCIs will be reviewed for further review? Any data needs to be more than reviewed. Data should be reported and shared with concerned parties. There should be commitment to act on significant findings from data. There should be discussion about what steps will be taken if negative findings, or positive for that matter, from data should surface.	NCIs deleted.
2. Page 9, **Ongoing Monitoring,** last paragraph & top of page 10 Health and safety & ANE don't seem germane, per se, to planning and discussion of "most integrated setting" requirements. These are already long standing, overarching Medicaid requirements. More elucidation in this area would be helpful.	Agreed. This has been removed.
3. Page 8 & top of page 9, **Monitoring during Transition** Again, more detail is needed. Plans, timelines, progress reports, etc. should be made available to the public and especially consumers, family members and other concerned parties. What happens if milestones and timelines are missed beyond notifying the state? Monitoring should not be limited to state staff. Other knowledgeable, neutral organizations or individuals should also be involved. Otherwise, there could be a perceived lack of objectivity. For example, assisted living facilities that are woefully noncompliant with MFP rules and requirements have been able to operate and receive MFP residents. This has gone on for years, possibly because there haven't been enough MFP compliant ALFs. Whatever the reason, this issue has never been adequately addressed.	More detail has been added.
Transition Plan Section: References and Resources Comments	
Comment/Summary	**State Response**

Two References and Resources comments related to links not working or being duplicate	Links reviewed. The links worked.
1. Page 14, reference/resource #10 — This link does not work 2. Page 14, **References/Resources** All of the information contained in the links on page 14 were reviewed. Below please find comments about these resources, generally, because there is overlap across citations and populations addressed, some links are just to correspondence, some links reference the exact same document twice but with a different date and one link (number 10) did not work at all.	

Transition Plan Section: Supporting Documents	
Two commenters provided feedback regarding the Regulatory Crosswalk document and the feedback about the Statewide Transition Plan Workgroup's Recommendations; six (6) comments were received relating to the recommendations of the workgroup not being incorporated into the Statewide Transition Plan.	
Regulatory Crosswalk Comments: Two commenters provided feedback on the regulatory crosswalk document. Comments are in the same order as the crosswalk document and numbering corresponds to the numbering used in the crosswalk document.	
Comment/Summary	**State Response**
Adult care home regulations: the Disability Rights Center, Kansas Advocates for Better Care, CILs and other advocacy organizations need to be added as resources for individuals wanting to make a complaint or file an appeal. The federal rules require there be a "right to privacy and dignity", but the regulations only address using personal possessions. The right to have one's own appropriate clothes is included in the draft, but not the right to get assistance with dressing/undressing in one's clothes of choice; an important distinction. An additional comment related to this link is that the federal requirements says "the comfort, independence and preference of the resident". The regulation cited in this link only speaks to having basic household equipment and appliances available. Once again, this is too narrow an interpretation of the federal requirements. The "right to schedule" only addresses scheduling with the facility when this right should include family and advocates of choice and scheduling at the location and time of choice.	Comments noted. STP revised to identify "appropriate advocacy groups" as a resource.

ASSISTED LIVING AND RESIDENTIAL HEALTH CARE FACILITIES: 1. Agree with step toward regulatory change regarding choice of bedroom and if and who their roommate would be. Do not see where the individual's initiative, autonomy, or independence in making life choices is addressed in this section. When are individuals given a list of options regarding where they want to live including private residential setting? What is KDADS' definition of "Appropriate" clothing? If there needs to be a room change, does the resident get to choose what available he or she wants? Does the resident get to choose who will be her or his roommate? 2. Regulation says "subject to reasonable restrictions." What does this mean and does it isolate participants from individuals in the broader community? Assurance says "unrestricted access", is this unrestricted access in their setting? This is not just about accessibility compliance, which is important, but also for the individual to not be restricted from certain areas, such as the kitchen or common use areas, just like people who are not on Medicaid have unrestricted access to their living setting. Exclusion of some areas for some individuals due to safety can be addressed in their agreement but this is not applicable to all individuals just because they have a disability. 4. What about beyond kitchen equipment? This addresses "basic household equipment" which is more than kitchen equipment. The recommendation will help in regard to basic household equipment but the assurance goes beyond this. How does the setting support the participants comfort, independence, and preferences? 5. No Comment 6. The appeal rights for involuntary discharge definitely needs to be addressed in the regulations. This needs to follow the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 7. Complaint does not meet the level of the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 8. Does not address scheduled and unscheduled activities equal to others. Does not address participant's full access to the community. Could use more clarification in regard to participants having full access. 9. See Above 10. Needs to truly represent the individual's wishes. 11. No Comment	1. Agreed. Regulation will be changed to ensure facility informs of roommate change. 2. Restrictions only imposed if visitors infringe on other resident's rights. 3. Regulations require access to meet resident needs and care plan. 4. Regulations require access to meet resident needs and care plan. 5. No comment 6. Agreed. Regulations will be changes to require written agreement with landlord/tenant protections. 7. Agreed. Regulations will be changes to require written agreement with landlord/tenant protections. 8. The rights are the same for all residents in the facility. 9. See above 10. The rights are the same for all residents in the facility. 11. No comment

12. Does not address storing personal items in an area not accessible by others? 13. How will the administrator ensure each residents privacy? The right to dignity and privacy go broader than a lock on their door. 14. No Comment 15. Regulation says, "incorporate" input"? Needs to be clearer that individual not just choosing from a few choices on a menu plan but able to honestly choose what to eat. 16. Again, regulation says, "incorporate input"? Individual must be free to choose when to eat just like other people not receiving Medicaid. Not sure, this offers the spontaneity that most people enjoy in eating what they want and when they want. 17. Important choice to be included. 18. Regulation says "reasonable access" which is not the same as "access" in the Assurance. May need to include something in the rig stating that the individual has the right to acquire internet service for their unit? 19. This has good detail in regard to filing a complaint but does not address the participant being free from coercion--someone persuading them to do something through force or threats--or how being free is assured. 20. This means more than entrances and toilet rooms. The whole setting needs to meet applicable guidelines, whether Americans with Disabilities Act (ADA), Section 504, Fair Housing Amendments Act (FHAA), etc. Does "supports" in this regard not mean more than physical access? 21. Assistance with getting dressed and according to the individuals preference needs to be stated clearly here which it is not. Yes, this needs to be included in the NSA, but this right needs to be clearer.	12. Construction regulations also require space for storage of personal items in the resident's room. 13. Required to have policies to implement resident rights; reviewed on survey if there are concerns expressed. 14. No comment 15. Part of the negotiated service agreement/personal care plan; residents in assisted living have ability to store and prepare food in their room 16. See 15 above Most facilities have options for internet at the resident's expense; would be described as part of the 'services offered" explained prior to admission 18. See 17 above 19. Reviewed during the survey as part of resident interviews. 20. Construction regulations require all areas to be accessible to all residents except areas secured for safety. 21. Current regulations identify this ADL in the functional capacity screen assessment; if assistance is needed it is required to be addressed in the negotiated service agreement/personal care plan

HOME PLUS FE/PD: 1. Agree with step toward regulatory change regarding choice of bedroom and if and who their roommate would be. Do not see where the individual's initiative, autonomy, or independence in making life choices is addressed in this section. When are individuals given a list of options regarding where they want to live including private residential setting? 2. Regulation says "subject to reasonable restrictions". What does this mean and does it limit the individual's preference? 3. Assurance says "unrestricted access", is this unrestricted access in their setting? This is not just about accessibility compliance, which is important, but also for the individual to not be restricted from certain areas, such as the kitchen or common use areas, just like people who are not on Medicaid have unrestricted access to their living setting. Exclusion of some areas for some individuals due to safety can be addressed in their agreement but this is not applicable to all individuals just because they have a disability. 4. What about beyond kitchen equipment? This addresses how "basic household equipment", which is more than kitchen equipment, will be accessed by participants. The recommendation will help in regard to basic household equipment but the assurance goes beyond this. How does the setting support the participants comfort, independence, and preferences? 5. No Comment 6. The appeal rights for involuntary discharge definitely needs to be addressed in the regulations. This needs to follow the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 7. Complaint does not meet the level of the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 8. Does not address scheduled and unscheduled activities equal to others. Does not address participant's full access to the community. Could use more clarification in regard to participants having full access. 9. See Above 10. Needs to truly represent the individual's wishes. 11. No Comment 12. Does not address storing personal items in an area not accessible by others? 13. How will the administrator ensure each residents privacy? The right to dignity and privacy go broader than a lock on their door.	See comments for assist living facility and residency care facility as these are the same regulations.

14. [left blank] 15. Regulation says "incorporate input"? Needs to be clearer that individual not just choosing from a few choices on a menu plan but able to honestly choose what to eat. 16. Again, regulation says "incorporate input"? Individual must be free to choose when to eat just like other people not receiving Medicaid. Not sure, this offers the spontaneity that most people enjoy in eating what they want and when they want. 17. Important choice to be included. 18. Regulation says "reasonable access" which is not the same as "access" in the Assurance. May need to include something in the regulation stating that the individual has the right to acquire internet service for their unit? 19. This has good detail in regard to filing a complaint but does not address the participant being free from coercion--someone persuading them to do something through force or threats--or how being free is assured. 20. This means more than entrances and toilet rooms. The whole setting needs to meet applicable guidelines, whether Americans with Disabilities Act (ADA), Section 504, Fair Housing Amendments Act (FHAA), etc. Does "supports" in this regard not mean more than physical access? 21. Assistance with getting dressed and according to the individuals preference needs to be stated clearly here which it is not. Yes, this needs to be included in the NSA, but this right needs to be clearer.	

ADULT DAY CARE: 1. How will the administrator/operator ensure this? And selection of roommate(s) is not addressed? 2. Regulation says "subject to reasonable restrictions". What does this mean and does it isolate participants from individuals in the broader community? 3. Assurance says "unrestricted access", is this unrestricted access in their setting? This is not just about accessibility compliance, which is important, but also for the individual to not be restricted from certain areas, such as the kitchen or common use areas, just like people who are not on Medicaid have unrestricted access to their living setting. Exclusion of some areas for some individuals due to safety can be addressed in their agreement but this is not applicable to all individuals just because they have a disability. 4. What about beyond kitchen equipment? This addresses how "basic household equipment", which is more than kitchen equipment, will be accessed by participants. The recommendation will help in regard to basic household equipment but the assurance goes beyond this. How does the setting support the participants comfort, independence, and preferences? 5. Legally enforceable agreement/lease? 6. The appeal rights for involuntary discharge definitely needs to be addressed in the regulations. This needs to follow the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 7. Complaint does not meet the level of the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 8. Does not address scheduled and unscheduled activities equal to others. Does not address participant's full access to the community. Could use more clarification in regard to participants having full access. 9. See above 10. Needs to truly represent the individual's wishes. 11. No Comment 12. Does not address storing personal items in an area not accessible by others? 13. How will the administrator ensure each residents privacy? The right to dignity and privacy go broader than a lock on their door. 14. [left blank] 15. Regulation says "incorporate input"? Needs to be clearer that individual not just choosing from a few choices on a menu plan but able to honestly choose what to	See comments for assist living facility and residency care facility as these are the same regulations. Please note roommate is not addressed because there are no roommates in adult day care.

eat. 16. Again, regulation says "incorporate input"? Individual must be free to choose <u>when</u> to eat just like other people not receiving Medicaid. Not sure this offers the spontaneity that most people enjoy in eating what they want and when they want. 17. Important choice to be included. 18. Regulation says "reasonable access" which is not the same as "access" in the Assurance. May need to include something in the regulation stating that the individual has the right to acquire internet service for their unit? 19. This has good detail in regard to filing a complaint but does not address the participant being free from coercion--someone persuading them to do something through force or threats--or how being free is assured. 20. Not sure what X means in Compliance column. This means more than entrances and resident rooms. The whole setting needs to meet applicable guidelines, whether Americans with Disabilities Act (ADA), Section 504, Fair Housing Amendments Act (FHAA), etc. Starting with parking, pathway, entrance, and throughout in order for participants to have freedom in their setting. Does "supports" in this regard not mean more than physical access? 21. Assistance with getting dressed and according to the individuals preference needs to be stated clearly here which it is not. Yes, this needs to be included in the NSA, but this right needs to be clearer.	

ASSISTED LIVING AND RESIDENTIAL HEALTH CARE FACILITIES: PERSON-CENTERED SERVICE PROCESS OR PLAN 1 & 7**.** Consumer choice must be the priority. The State needs to work with consumers and providers when making the necessary changes to regulations on this section to assure consumer choice is covered.	Agreed.
HOME PLUS: PERSON-CENTERED SERVICE PROCESS OR PLAN 1 & 7. Consumer choice must be the priority. The State needs to work with consumers and providers when making the necessary changes to regulations on this section to assure consumer choice is covered.	Agreed.

ADULT DAY CARE: PERSON-CENTERED SERVICE PROCESS OR PLAN 1 & 7. Consumer choice must be the priority. The State needs to work with consumers and providers when making the necessary changes to regulations on this section to assure consumer choice is covered.	Agreed.
IDD FACILITIES: PERSON-CENTERED SERVICE PROCESS OR PLAN 10. Not everyone is given these choices, so there needs to be a better way of reviewing that participant's choices are being given. 11. Segregated group home settings do not allow participants have visitors without limitations. There are schedules to be met with other activities and participants schedules. Most current I/DD "homes" are not conducive to meeting the needs or choices of one individual participant, so unless there are major changes, nothing will change for many individuals with I/DD. 4. Do not see where this means that individuals have access to all basic household equipment. 5. Assure to follow the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 6 & 7. Assure to follow the KS Landlord & Tenant Act in order for participants to have equal rights as people not receiving Medicaid. 8. Do not agree that this happens currently, so not compliant. 10. This is already in the regulations but does not occur this way now, unless participants are in true integrated settings. 12, 13 & 14. Just because the regulations say that participants have the right to privacy, dignity, and respect, does not mean this happens. 15,16, & 17. Although this document states the current regulations meet compliance of these three reviews, it is not clear in the listed regs where a participant chooses when and what to eat and not to whom to eat with or eat alone. These are not rights that are practiced in most IDD facilities. 19. The regulation does not mention a process for filing a complaint nor how a participant will be free of coercion in the setting. Overall comment of IDD Facilities: All of the Assurances stated that the State is in compliance and would be "Reviewed during licensing and onsite visits". Having worked with individuals who have utilized these facilities, such as group homes,	The state believes when a facility meets the licensing regulations and granted a license they meet the required elements. If providers are not meeting licensing regulations we encourage them to make a report to the county CDDO.

where the current regulations listed in this document making these facilities "compliant", these facilities have not complied with individuals choices or rights. Unfortunately, the regulations do not offer enough detail to assure us of compliance. Now that being said, there are IDD services being provided in KS communities that are truly about the individual's choices, but not nearly enough.	
IDD Licensing Regulations: The federal regulations require "access to the broader community, including employment", the draft plan only mentions family being able to visit with advance permission. The draft plan incorporates too narrow an interpretation of the federal requirement. One concern about this link is that "wait list management" is only discussed in terms of the IDD Waiver program. Wait list management for other groups like PD Waiver participants is not included anywhere in the draft plan. This is of great concern given the coming end of the MFP program in Kansas.	Comments noted. The state used existing licensing regulations to provide a tool in estimating compliance.

Statewide Transition Plan Workgroup Comments: Two commenters provided feedback on the recommendations of the Statewide Transition Plan Workgroup, comments below are listed by the subgroups of the Workgroup.	
Comment/Summary	**State Response**
DEMENTIA RECOMMENDATIONS: **1.2--Workgroup Recommendation:** Determine the financial resources and workforce needed to maintain and increase the capacity for HCBS services across Kansas. **KDADS Response:** The State will proceed forward under the assumption there is not additional funding available for FTP requirements. **Comments:** Do not see it possible for the State of KS to complete the HCBS Settings Rule without an increase of financial resources to increase the capacity across the board for HCBS participants. **1.5-- Workgroup Recommendation:** State Assistance in Transitioning HCBS Consumers in Non-Compliant Settings **KDADS Response:** This recommendation is incorporated into the STP. **Comment:** Transitioning individuals from noncompliant settings into compliant ones will be important and will take some extra funds to provide, similarly to the Money Follows the Person program. **1.6-- Workgroup Recommendation:** Allow for stakeholder review on Right to Appeal language. **KDADS Response:** The state will allow for stakeholder input into the appeal language. **Comment:** Agree that stakeholders should be able to provide input into the development of Right to Appeal language. **1.7-- Workgroup Recommendation:** KABC recommends that the state review and adopt a "right to rent" statute for Medicaid waiver participants, similar to public housing **KDADS Response:** This would be a legislative issue. **Comment:**	**1.2:** The State will proceed forward under the assumption there is not additional funding available for FTP requirements. **1.5:** Original recommendation incorporated in STP. The State will proceed forward under the assumption there is not additional funding available for FTP requirements. **1.6**: Original recommendation incorporated in STP. 1.7: Comment noted.

[INDEPENDENT LIVING CENTER] agrees with this recommendation **KABC recommends that the State review and support the passage of a "right to rent" statute which would include consumer protections similar to those afforded to persons who live in public housing and which would be appropriate to the needs of Medicaid waiver participants with increased care needs or dementia.** (The "right to rent" statute: *24 CFR 966.4* is offered to share the intent of such law, the specific conditions would require revision with consumer input.) We recommend including a "right to rent" requirement, similar to the process employed in public housing which provides consumers the right to an internal hearing, prior to exercising their right to any external hearing (such as a State Fair Hearing), when an involuntary discharge/eviction is pursued. If the involuntary transfer/discharge is sought specific to the facility's inability to meet the consumer's care needs, the internal hearing process could allow a consumer to present information from an independent functional or health assessment completed by an independent professional, with no conflict of interest relationship to the residential care home and which could form the foundation for the consumer's challenge of the involuntary discharge. As the process currently exists in Kansas, if an adult care home seeks to involuntarily discharge an elder due to the facility's inability to meet the resident's level of care needs, the elder has neither an internal or external appeal process nor do they have the opportunity to challenge the assessment upon which the discharge is predicated. This seems a clear conflict of interest as the facility conducts the assessment, and the assessment is the evidence of the need for an involuntary discharge. The facility completing the assessment may seek to discharge the resident as a cost avoidance measure rather than incur increased costs for adequate staffing, staff training (dementia or health condition specific), or other resident related expenses. Further we recommend that to assure consistency in the housing/placement of an older adult that any verbal assurance/promise made to an older adult or legal representative by the facility or their representative at the time of lease be required to be incorporated into the terms of their lease agreement. Without such a requirement, adult residential care providers are able to legally "over promise" what they will accommodate for a participant without any legal recourse for the participant. The State's response is that current "regulations already require any verbal assurance to be in the Negotiated Service Agreement." This does not address the binding nature of the admissions contract. In reports received frequently by consumers it is at "point of sale" where the verbal promise is made but not included in the written "admissions contract."	

The State's response notes that it will make a provision to allow for individual appeal rights for residents in adult care homes. The State has neither proposed nor offered in its plan any detail or draft language for public comment. The State's plan says that "Kansas will utilize the regulatory process for inclusion of appeal rights in the Kansas Administrative Regulations." The plan goes on to predict taking two legislative sessions to complete "new or updated regulations." The State's response is confusing. We cannot ascertain whether the referenced appeal rights will be implemented through regulation, statute or both. The plan does not include an action plan for involving residents or stakeholders in drafting regulations and/or legislation, or for a timeline to introduce legislation, or to begin the regulatory process. The State's response also notes that consumers can reach out to the Long Term Care Ombudsmanman. While this statement is accurate it ignores the limitations of the ombudsmanman program. The program does not provide a consumer the avenue to appeal a negative action. While the ombudsman program is a significant resource to advocate for adult care facility residents and to assist them in finding a subsequent placement setting, the program has no targeted case management expertise or legal advocacy component, nor does it have any enforcement mechanism to prohibit discharge by a facility which might be inappropriately pursuing an involuntary discharge/transfer of a resident. Separate from the long-term care ombudsman and available to persons receiving Medicaid waiver services, is the KanCare Ombudsman program. This ombudsman program is in fact prohibited by the state from assisting residents to file an appeal request or with preparing or presenting information during a hearing. Both the limitations of the Long-term Care Ombudsman program and the prohibition to assist in consumer appeals of the KanCare/Medicaid Ombudsman program leave consumers without reasonable resources to address evictions.	

KABC recommends that individuals should not be automatically restricted based on a diagnosis of dementia or when renting or purchasing care in a "memory care" or "adult day care" setting. Any and all restrictions should be subject to the requirements of modification and be laid out in detail with supporting documentation in the person-centered service plan and include adequately trained staff and number of staff, as well as detailed alternatives the facility has implemented. The facility would be required to notify the state survey unit for the unit's review any instance where an individual is confined to a locked unit. Innovations which would support this change could be incorporated in new regulations and practices such as: A) staffing the exit door to prevent, redirect or accompany an individual who has been assessed as being at risk for wandering or exitseeking (staffing could be paid or by volunteers). "Making the participant a better offer" by engaging her/him in an alternate activity such as music based programs/Music and Memory, or by staff walking with the person (in or out of the building as is appropriate). Additionally, people exit when they are trying to communicate something - "I want to go home," "I have to go get the cows," "I'm lonely and want to find my family." Staff engaging with an adult in activity which has meaning for her/him is directly in line with the intent of Person Centered Service Plans and the requirements of the final setting HCBS rule. B) Comfort is also key to the person's being "at home" in a setting. An attempt to leave may be communicating a distress. Appropriate assessment and treatment of pain is one consideration when someone is exhibiting distress. Using the systems approach offered by CaringKind in "Palliative Care for Persons with Dementia" as foundational for regulations and practices is an appropriate and innovative response to this need. This approach was tested and is in use in Beatitudes an adult care home and currently in use in Hesston, KS at Showalter Village. http://www.caringkindnyc.org/_pdf/CaringKindPalliativeCareGuidelines.pdf C) Utilize individual location technology (such as wrist watch type or necklace type) as an alternate means for locating an individual who is in motion, rather than restricting their motion. D) Prevent use of "wandering alarms" as these create stress and wrong action for cognitively impaired individuals who like all of us have been trained to run away	Comment noted.

from the source of the alarm. E) Units or services designated as "memory care" should disclose in writing to participants what specific specialized services, training and staffing make it different from and more competent than other settings or services to care for an individual's specific needs. **The State's response to this recommendation** is minimal and states simply that "all settings will be required to have PSP." The State's response provides no policies, protocols or parameters for education, training or staffing. Staff who care for persons with dementia need training around the alternatives to physical and chemical restrictions and in best practices. The need for PSP training is mentioned in the plan with no schedule, details, assignment of responsibility for development, implementation or oversight. [STATE ASSOCIATION] asks that specific requirements for dementia care be identified and included in the State's plan, along with outcome measures by which achievement is ascertained.	
KABC recommends that the State set requirements for care staffing and training that meet the individual's needs including for dementia, disability-related and health conditions. Such requirements would provide the foundational intersection to address a number of innovations promoted by the HCBS final rule, as well as addressing a number of current deficits in the system. Staffing and training requirements are appropriate for both adult day and residential care settings. A) Staffing - should be addressed in regulation, based on the person centered service plan and validated through the annual health survey and complaint process. B) Training of staff - should be addressed in regulation, based on the person centered service plan, the individual's health needs and disease status, and validated through the annual health survey and complaint process. (Training Hours and Content correlated specifically to the Care Plan) C) Consistent assignment of staff - based on the person centered service plan and validated through the annual health survey and complaint process. D) Use of family and volunteers to provide care for a participant is to be integrated into the routine of the service provider. **The State's response** stated an unwillingness to address staffing and its impact on	Comment noted.

quality care in congregate settings. “Meeting the needs of the resident” while an appropriately high standard, is not defined and lacks specific quantitative measures. Among the quality metrics that are measured, we know certain ones point to diminished quality because of insufficient staff. For example, **Kansas ranks 50th worst in the nation for overuse of anti-psychotic drugs on older adults with dementia in nursing facilities**. The State does not track or report the use of chemical restraints in the assisted adult residential care or day settings. Absent the data to prove otherwise, there is little reason to believe that the practice of chemically restraining elders with dementia in Kansas nursing homes is different than in other settings which are licensed and inspected by the same state agency. Addressing this health and care standard in all settings should be of the highest priority, and required by compliance enforced through the Final Rule. The HCBS settings rule is an opportunity to address this dangerous and inappropriate use of chemicals to restrain adults with dementia. To fully comply with the Final Rule, Kansas must be able to assure residents and their families that anti-psychotics aren’t used to chemically restrain residents with dementia. Chemical restraint should be addressed in regulation, based on an approved individual medical diagnosis, require informed consent and documentation of all other options utilized with timeframes and outcomes, and include reduction and discontinuation protocol at outset of use. It should be based on the totality of the personcentered service plan and validated through the monthly pharmacy reviews, as well as the annual health survey and complaint process. The use of anti-psychotic drugs should be allowed only with the signed informed consent of the participant or legal representative (see federal guidelines on informed consent and other state laws including California which currently successfully use this model). The State should annually report usage by individual facility and setting.	

KABC recommends the State use the planning process to create the next generation of health promoting congregate and individual settings and services which will serve older adults, including those with dementia, and meet the requirements of the HCBS final setting rule. Broad-based consumer and stakeholder input should be involved in the planning process and in drafting rules/regulation/statute as needed and appropriate. For example: A) Community based housing such as apartments with services, rather than institutional or segregated housing complexes. B) Transportation that supports community integration, living, and community access. C) Services that are delivered in the setting where a person lives and is able to remain rather than further challenging a person with dementia or functional limitations and requiring that s/he move from setting to setting. **The State's initial response** was that it didn't understand this recommendation. **To clarify**: During the 1990s, Kansas used the development of the HCBS Frail Elder Waiver as an opportunity to innovate in HCBS settings and services and to improve care quality for all residents (Medicaid and non- Medicaid) in adult residential care facilities. By contrast, the current Kansas approach to the final settings rule is to preserve the status quo by doing the bare minimum required to comply. Rather than using development of the State's plan as an opportunity to improve the quality of life and equalize good care practices for all residents (Medicaid and non-Medicaid) in settings, the State's goal appears to be retrofitting current, now-outdated policies and approaches that do not match consumer needs and desires or better practice approaches. Without a plan that specifically addresses the need for additional housing resources, transportation and the unique needs of persons on the Medicaid waivers including those with dementia, Kansas simply maintains the status quo and subverts the intent of the settings rule.	Comment noted.

DAY SERVICES:	
2.1-- Workgroup Recommendation: Kansas is an employment first state and we encourage everyone to consider employment as the first option. **KDADS Response:** The state agrees with this recommendation. **Comment:** Employment and/or post-secondary education should always be considered first and foremost for all people with disabilities just as it is with people without disabilities. The employment and education must also be at integrated settings among fellow workers with and without disabilities.	2.1: State agreed. Changes made to transition plan.
2.2-- Workgroup Recommendation: Anyone participating in day services, and their natural supports, should receive annual counseling and training on benefits, other options, and resources available to help them achieve employment goals. **KDADS Response:** The state agrees with this recommendation. **Comment:** This should be done at least annually, as well as to be sure the individuals know that they can change their goals and do not have to wait for their annual PCP meeting.	2.2: State agreed. Changes made to transition plan.
2.3-- Workgroup Recommendation: Day service setting- Individualized Community Integrated Day Services: Recipients have individualized schedules and spend the majority of their day services in the community **KDADS Response:** The state agrees with this recommendation. **Comment:** This is how all Day Services should be provided, integrated and among the broader community.	2.3: State agreed. Changes made to transition plan.
2.4-- Workgroup Recommendation: Day service setting- Facility Based Day Services: Day Services provided in a facility setting only when a person needs time-limited pre-vocational training, and only when	2.4: State agreed with original recommendation. Changes made to

such training is not available in community settings. **KDADS Response:** The state agrees with this recommendation. **Comment:** Medicaid Services should not be allowed in Facility based Settings that are segregated and isolated, that does not allow individuals to be among the broader community with non-Medicaid recipients.	transition plan.
2.5-- Workgroup Recommendation: Day service setting- Individualized Day Service Plan Due to Exceptional Needs / Day service Exceptions based on individualized, ongoing need due to health/behavioral need or operation of a home based business. **KDADS Response:** The state agrees with this recommendation. **Comment:** A home based business for individuals does result in some isolation similar to non-Medicaid recipients who operate home based businesses, although they would be in the broader community for some work related activities depending on the business. Regarding day services for individuals with ongoing health/behavioral need, these are two very different issues so they should be dealt with differently. For individuals with ongoing health issues, it would depend on the health complications as it does for individuals in the broader community. If it is a health issue to where they are not well enough to go to day services and should stay home, then they should have that option. If it health issues such as needing an insulin shot or assistance in the restroom, then this does not prohibit them from having the assistance in an integrated setting rather than a segregated Day Service setting for Individuals with Exceptional Needs. This is isolation based on population that is not allowed by the Settings Rule.	2.5: State agreed with original recommendation. Changes made to transition plan.
2.7-- Workgroup Recommendation: Recommendation to Legislature to provide funding for the systematic changes needed to meet the needs of all individuals. **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for FTP requirements. **Comment:**	**2.7:** The state will proceed forward under the assumption there is not additional funding available for FTP requirements.

We do not believe the Transition Plan will be fulfilled without additional funding for the systematic changes to meet the capacity needed in the program. **2.8-- Workgroup Recommendation:** Create a rate structure reflective of a business model that maintainable for providers and supports the outcomes the state wants. **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for FTP requirements. **Comment:** We agree with this recommendation as well. **2.10-- Workgroup Recommendation:** Certification for day services providers – all providers (including current) are/will be certified - as part of certification, providers share plans for ensuring services are community integrated. **KDADS Response:** The State is reviewing this recommendation. **Comment:** We do not agree with this recommendation. First, certification of day service providers makes for more administrative work and costs for both the providers and the States. Providers already have to go through the licensing with the State, so this makes no sense. Secondly, providers who have chosen to provide day services in segregated settings through the years rather than grow and change with the increasing philosophy of individuals with disabilities being true participants of our communities will learn how to provide integrated services in their communities just like others have have. The integrated services may vary in communities but it is learned by listening to participants and working with their communities. **2.12-- Workgroup Recommendation:** Goods and services option- allow for use of waiver services to purchase vocational instruction (welding lessons, classes, etc.) **KDADS Response:**	2.8: The state will proceed forward under the assumption there is not additional funding available for FTP requirements. 2.10: The state has revised the transition plan to include amendment of IDD wavier. Day services will be redesigned in this process. 2.12: The state has reviewed this and will amend the IDD waiver to redesign day services.

The state will review this recommendation. **Comment:** We do not agree with this recommendation. Why use waiver services to purchase vocational instruction, when this should be covered by VR Services? If this is not happening through VR, then VR needs to be fixed. We do not have enough waiver services funding to meet the systemic changes needed nor to meet capacity of individuals, so spreading the waiver service funding thinner would be a mistake. Most of Kansas Centers for Independent Living (CILs) for example, are highly [Independent Living Center] led and successful in assisting people with disabilities learn [Independent Living Center]ls that can assist them in obtaining employment. Unfortunately, most VR offices do not utilize their partners across the state effectively. VR does not refer customers to CILs or potentially other agencies that assist people with disabilities become employed. [INDEPENDENT LIVING CENTER] requested referrals on a regular basis. [INDEPENDENT LIVING CENTER] would be able to assist the people with disabilities who are not being served by VR become employed. [INDEPENDENT LIVING CENTER] receives little to no referrals and therefore people go without Vocational services. There has been many other issues with VR that need to be remedied, so [INDEPENDENT LIVING CENTER] firmly believes that the state must fix what is broken rather than bandage it with other funding. **2.14-- Workgroup Recommendation:** Currently, when a provider is successful at achieving employment outcomes, they are penalized; this barrier should be removed. **KDADS Response:** The state does not understand what the barrier might be. **Comment:** [INDEPENDENT LIVING CENTER] believes the interpretation of the Workgroup Recommendation is the issue that a provider is penalized because they lose out on funding when an individual has a successful employment outcome into the community. If this is correct, then providers need to remember that these programs are about assisting individuals to be successful in their community. [INDEPENDENT LIVING CENTER] does understand how this impacts the provider when individuals no longer need services. However, this should also be seen as a success for the provider, although it would be helpful if the State were to figure out a way to bonus or incentivize providers in reaching these successes	2.14: The state believes individuals should be supported in achieving employment outcomes and will design day service with that philosophy in mind.

NON-INTEGRATED EMPLOYMENT SETTINGS RECOMMENDATIONS:	
3.1-- Workgroup Recommendation: Additional funding and resources to is needed to ensure full compliance with the new Final Rule. The state must calculate and fund a sufficient fiscal note to accomplish Final Rule implementation. **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for FTP requirements. **Comment:** We would agree with this recommendation believing that our State will not be successful with these endeavors without additional funds.	3.1: The state will proceed forward under the assumption there is not additional funding available for FTP requirements.
3.2-- Workgroup Recommendation: There should be no requirement that providers submit transition plans until alternative Waiver services are finalized. Kansas needs to draft Waiver amendment language immediately in order to develop the menu of services that offer Kansans the alternatives needed to accomplish compliance with the Final Rule. **KDADS Response:** The state will provide technical assistance to providers of settings who do not comply or are in partial compliance. The provider must submit a plan to the state as to how they will come into compliance with the Rule. **Comment:** [INDEPENDENT LIVING CENTER] is confused by KDADS' response. The Workgroup Recommendation, with which [INDEPENDENT LIVING CENTER] agrees, it is unclear how KDADS can provide technical assistance to providers when the Alternative Waiver services are not finalized and approved by CMS.	3.2: The states waiver amendments should begin as soon as possible. The transition plan has been edited to provide specific dates.
3.3-- Workgroup Recommendation: The "Final Rule Transition & Remediation Timeline" should be changed. Currently, this timeline, as one example, has providers submitting "remediation plans" to the state even though Kansas' Final Rule plan has not been approved by	3.3: The state believes the clarity added in the transition plan will give providers a clearer roadmap to the state's plan to meet compliance

CMS. **KDADS Response:** The state must work to ensure compliance and those details are in the draft plan. The STP is an ongoing document and will change as we add steps to the plan. **Comments:** We agree that providers need to start working on necessary changes as soon as possible. Prolonging the process will not make it easier to complete. **3.4-- Workgroup Recommendation:** Service definitions proposed by this subgroup (see full recommendations document) need to be consistent with other programs, rules and definitions used by the state. Terms need to mean the same thing. **KDADS Response:** The state concurs with this recommendation. **Comments:** We cannot comment on this recommendation proposed by the subgroup since we cannot find access to the "full recommendations document" containing the service definitions. **3.5-- Workgroup Recommendation:** There should be a specific effort to ensure there are no unintended consequences harming or adversely affecting the resources to carry out the Final Rule. **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree with this recommendation and the States response to concur. **3.6—RECOMMENDATION**: *(NOTE-- States must be in full compliance with the Federal requirements by the time frame approved in their Statewide Transition Plan, not to exceed March 17, 2019.)* **Workgroup Recommendation:** Systems change should be specific, incremental, intentional and across departments and state agencies. As an example, we know of no current disability program or support that has the current capacity to absorb a huge influx of referrals that could result from transitions driven by the Final Rule We need to be cognizant of these limitations. **KDADS Response:**	with final rule. 3.4: The state agreed with original comment. Workgroup documents are located in the STP. 3.5: State agrees. 3.6: State has added language tot eh STO regarding Olmstead.

The state understands this concern. **Comments:** Kansas needs to establish a workgroup of all HCBS providers, customers of HCBS services and knowledgeable staff from KDADS, KDHE and legislators and develop a comprehensive Olmstead Plan. The Olmstead Plan would provide a clear and concise ROADMAP. This Roadmap would identify and increase funding to serve people on the HCBS waiting list and those who are not receiving all of the services identified as required, but not available due to lack to adequate funding through the state. The funding would need to be ensure that the capacity to serve the individuals on the waiting list or needing additional services to live independently in the community of their choice as well as develop a timeline of when services will be available.. The Olmstead Plan would need to be completed by July 1, 2018 to insure that Kansas complies with Federal regulations by March 17, 2019. **3.7-- Workgroup Recommendation:** The state should tap existing expertise as they develop all of the needed tools and steps to comply with the Final Rule. This expertise includes providers, self-advocates, advocacy organizations, people with disabilities and families. The state needs to partner with these experts. Engagement with stakeholders needs to occur immediately to review draft Waiver amendments prior to their submission for public comment. **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree that the State needs to use the expertise of people with disabilities, advocacy organizations, and providers, especially those already providing integrated services meeting the Final Rule, by partnering immediately. **3.8-- Workgroup Recommendation:** Develop an assessment process to ensure that the most integrated setting is achieved on an individualized basis. Such a process must be free from conflicts of interest, address the needs of the individual, and conform to the Final Rule. **KDADS Response:** The settings offered and selected by the individual, or representative will be reflected in the PCP. The assessment process will be free from conflict of interest **Comments:**	3.7: State agrees. 3.8: The settings offered and selected by the individual, or representative will be reflected in the PCP. The assessment process will be free from conflict of interest

The State must assure that the assessment process to ensure that the most integrated setting is achieved must be based on the individuals choice and reflected as such in the PCP. **3.9-- Workgroup Recommendation:** An overriding goal must be preserving and expanding service capacity in order to conform to the Final Rule. This does not mean simply preserving the status quo. It means preserving and expanding the capacity to empower and serve Kansans with disabilities in the most integrated setting. Doing this will take time, money and immediate attention by Kansas. **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for STP requirements. **Comments:** We would agree with this recommendation believing that our State will not be successful with these endeavors without additional funds. **3.10-- Workgroup Recommendation:** State should adopt the supported employment Waiver Integration Stakeholder Engagement (WISE) 2.0 workgroup recommendations for a new supported employment HCBS program, as outlined in this report. (See full recommendations report.) **KDADS Response:** The state will review this recommendation. **Comment:** [INDEPENDENT LIVING CENTER] did not have access to the "full recommendations document" containing the recommendations for a new supported employment HCBS program, therefore, we do not feel comfortable commenting on this issue. **3.11-- Workgroup Recommendation:** The entire system should be incentivized in order to fund the desired outcome of increased competitive, integrated employment for people with disabilities of all working ages. Kansas needs to funds the outcomes it desires. According to Kansas public policy, competitive, integrated employment is supposed to be the first, and desired, option. As one example, disability provider payments could be incentivized toward the outcome of competitive and integrated employment and perhaps away	3.9: The state will proceed forward under the assumption there is not additional funding available for STP requirements. 3.10: State will review the report as part of IDD wavier amendment. State has also requested technical assistance from NASDDDS to assist in an environmental analysis of IDD system. 3.11: State agrees in incentivizing desired outcomes. This will be part of the IDD wavier amendment.

from a simple fee for service model. **KDADS Response:** The state will review this recommendation. The state will proceed forward under the assumption there is not additional funding available for STP requirements. **Comments:** As stated in the above comment, [INDEPENDENT LIVING CENTER] did not have access to the "full recommendations document" containing the recommendations for a new supported employment HCBS program, therefore we do not feel comfortable commenting on this issue.	
3.12--Workgroup Recommendation: Kansas public policy needs to be evaluated to ensure it is consistent with the Final Rule toward the goal of community-based, integrated services. As an example, Article 63 envisions facility-based services. Rates and supports will need to be individualized in order to obtain the principles detailed in this report. **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for STP requirements. The Rule does not prohibit congregate settings or limit the number of individuals. **Comments:** We agree with the recommendation. Regarding KDADS response, it is our understanding for Medicaid settings the Rule allows multiple individual settings when it is the choice of each individual and the settings must comply with certain requirements of the Setting Rule and/or Heightened Scrutiny.	3.12: Comment addressed
3.13-- Workgroup Recommendation: Policy and procedure changes need to ensure that non-integrated employment settings be limited to prevocational supports, be time-limited, goal-oriented, person-centered, and used only when it is truly the most integrated setting. This stated policy to conform to the Final Rule mandate cannot be in name only. Kansas policy and procedures need to contain effective accountability mechanisms in order to ensure these principles are accomplished. Rates and supports will need to be individualized in order to obtain the principles detailed in this report. Kansas also needs are far more robust validation process in order to ensure that these principles are supported and change occurs (see Tennessee's transition plan). **KDADS Response:**	3.13: Comment previously addressed.

The state will proceed forward under the assumption there is not additional funding available for STP requirements. The state concurs with policies and procedure changes be limited to prevocational supports **Comments:** We would agree with this recommendation believing that our State will not be successful with these endeavors without additional funds.	
3.14-- Workgroup Recommendation: Kansas public policy and procedure should focus on self-direction for disability services. This has been a cornerstone of Kansas disability policy and has been contained in Kansas law since the late 1980's [K.S.A. 39-7,100]. However, it has not been effectuated. This law focuses on self-direction, increased autonomy and control of funding for persons with disabilities to access their needed services and supports. **KDADS Response:** The state supports self-direction. **Comments:** We wholeheartedly agree with this recommendation. Self-direction has certainly not been promoted within the IDD population, or even "allowed" very often in some areas of the State. Self-direction is so important in making the changes necessary for individuals under the Setting Rule. Although we appreciate the States response, the State must not just support self-direction, but enforce the statute of self-direction.	3.14: The state supports self-direction and enforces state statutes.
3.15-- Workgroup Recommendation: Detailed, on-going, extensive and robust outreach, communication and education plans must be developed and implemented regarding the Final Rule and its impact in Kansas. People with disabilities, families, many providers and support staff are completely unaware of how the Final Rule will impact their lives. **KDADS Response:** The state concurs and encourages those involved in this group to encourage individuals to participate in meetings and calls held by the state. **Comments:** We agree with this recommendation but believe it is vital that this outreach, communication, and education approach individuals and their families carefully not to scare them about their future and changes in their lives that might need to happen. Individuals and their families need to be educated that these changes are	3.15: comment previously addressed and additional details added to STP.

very positive, with much potential for success to be integrated into the community through employment, training, and/or education to assist them in being independent and successful in their communities. This needs to occur with a coordinated effort by the State and stakeholders. **3.16-- Workgroup Recommendation:** Recommend the creation of cross-age, cross-disability independent navigation, ombudsman and facilitation supports to help address the complexities of HCBS and related supports and activities, which have gotten more complex with the Final Rule. As an example, the WISE 2.0 subgroup of the services definition group recommended that TERF specialists (Transition, Employment, Resource Facilitation) be established and funded. The WISE 2.0 groups have also recommended navigation and ombudsman services. (See full recommendations report.) **KDADS Response:** The state will review this recommendation. **Comments:** [INDEPENDENT LIVING CENTER] definitely supports the recommendation of creating cross-age, cross disability navigators or coordinators to assist with addressing the complexities of HCBS and related supports and services. CIL's used to provide this as part of our Independent Living Specialist, which became Targeted Case Management services under the HCBS PD waiver. Since CIL's are the only cross-age, cross-disability consumer controlled organizations providing HCBS services to eligibility people with disabilities. The centers for independent living are the perfect entity to provide these services, should funding become available. **3.17-- Workgroup Recommendation:** Kansas should appoint a residential settings workgroup to examine changes needed to those settings in order to make them conform to the Final Rule. **KDADS Response:** Residential settings generally by regulation meet the rule with a few changes to policy. Onsites are completed by the quality and licensing staff. **Comments:** We agree with the workgroup's recommendation.	3.16: This is beyond the scope of the STP. Comment noted. 3.17: State agrees. State has requested and been approved for technical assistance from NASDDDS to address residential and day service structure.

PERSON CENTERED SERVICE PLAN:	
4.1--Workgroup Recommendation: Cost- Identify costs associated with compliance and attach a fiscal note to KDADS budget recommendations **KDADS Response:** The state will proceed forward under the assumption there is not additional funding available for STP requirements. **Comments:** There are changes planned for the PCSP as well as a great deal of training that will be required as a result, therefore a cost as a result, as well as other costs resulting from systemic changes in order for this to be successful.	4.1: Comment previously addressed. The state will proceed forward under the assumption there is not additional funding available for STP requirements.
4.2-- Workgroup Recommendation: Time- need more time to work on this and develop templates & guidelines KDADS **Response:** The state will continue to work on the plan with stakeholder input. **Comments:** We agree that this is an ongoing process of work to be successful but we also recognize that there is a deadline in March 2019, so the stakeholders must work with the State without delay.	4.2: The state will continue to work on the plan with stakeholder input.
4.3-- Workgroup Recommendation: Need for transparency- current status, outcome of assessments, stakeholder engagement. **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree with the need for transparency throughout the process.	4.3: The state concurs with this recommendation.
4.4-- Workgroup Recommendation: Conflict of Interest- need more guidance related to conflict of interest. Create policies to mitigate COI in IDD & SED TCM service. **KDADS Response:** The state is working with CMS on the COI.	4.4: Conflict of interest policy remains at CMS. It was submitted by KDADS in November 2016. KDADS has not received feedback to date.

Comments: Interested in seeing the result of this work. **4.10-- Workgroup Recommendation:** Identify a consistent training model of PCSP statewide; prior to implementation of the new process, annually thereafter. **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree with this recommendation on training for the PCP. **4.11--Workgroup Recommendation:** Stakeholder education is standardized so everyone gets the same information & Comprehensive educational guide about PCSP **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree with this recommendation in regard to stakeholder education being standard and consistent. **4.12-- Workgroup Recommendation:** In order to address COI – whenever possible the participant will facilitate their own PCSP; if unable their designated representative will facilitate. Qualified persons will document the PCSP; allow this person to work across waivers. **KDADS Response:** The individual should always drive the PCP. **Comments:** We completely agree that the individual should always be running their PCP whether they choose to facilitate or choose someone else. Individuals documenting the PCP should be qualified as well as consistent among them in doing so for good recordkeeping.	4.10: The state concurs with this recommendation. 4.11: The state concurs with this recommendation. 4.12: The state concurs with this recommendation.

4.13-- Workgroup Recommendation: MCO's need to be a team member for the PCSP team **KDADS Response:** The MCOs complete the PCP. **Comments:** The MCOs need to be team members through the entire process. This will assure that individuals with disabilities receiving HCBS services are successful and independent members of their broader communities.	4.13: The state concurs with this recommendation assuming the individual desires the MCO to be a part of the entire process.
4.14-- Workgroup Recommendation: Designated entity should attempt to conduct a preparation meeting with participants before their PCSP meeting. Designated entity should check for participant understanding throughout the PCSP meeting **KDADS Response:** The state concurs with this recommendation. **Comments:** We agree with this recommendation and believe the navigator/coordinator (mentioned in our comments for 3.16) might be able to do this as part of the position, which would be to assist individuals in being successful participants in HCBS.	4.14: The state concurs with this recommendation

[State Association] agrees with the recommendation of all four workgroups that the Kansas plan include a budget that outlines the State's cost to comply with the Final Rule. Funding and resources are required to ensure full compliance. There are systemic changes that must be made, and specific and adequate training for participant needs to fulfill the intent of the final rule should be available to consumers and families, providers, the MCOs, direct care staff and others engaged in delivery or oversight of HCBS waiver services. We agree that the State must create a standard of care, measurable by quality outcomes and adequately reimburse providers to meet that level of care. The State's response to proceed "under the assumption that there is no additional funding" is not realistic and misses the mark. There will be costs, both in terms of human resources and monetary, associated with drafting, implementing, and enforcing the Final Rule. It is irrelevant whether those costs are borne using current resources or covered through additional funding. It is however critical that the costs associated with compliance be identified and planned for. As the plan details emerge, concurrent, planned budgeting will be needed.	The state will proceed forward under the assumption there is not additional funding available for STP requirements.

Comment/Summary	**State Response**
Six (6) comments relating to incorporation of the Workgroup's recommendations into the Statewide Transition Plan, all requesting that they be incorporated and/or addressed in the Plan	The state as revised the STP and more clearly integrated work group suggestions.

1. In the pre-transition plan development, the State engaged work-groups to help provide insight and recommendations for the Transition Plan (T-Plan). Those involved thought this to be a good way to be engaged. The State engaged a number of the experts involved in those work-groups to provide insights and feedback to help direct the path of the future. Those work-groups generated recommendations for the T-Plan, but surprisingly, the recommendations were not incorporated into the T-Plan in a way that I am able to decipher. That truly is disappointing. Unfortunately, when things like this occur, it creates questions and concerns about the intent of those directing the process and their transparency within the process. Lacking detail in the T-Plan, as is apparent, makes it difficult to understand when there was a known and collective effort for this purpose.
   I, and presumably others in the community system, desire to have an IDD service system designed and working in harmony with the State and their requirements. I would presume the State has similar desires - where persons and families and the providers supporting them have the support and tools needed to achieve success in the Transition and beyond. All this works best when there is collaboration, transparency and a common vision.

2. Concern #4: State's Transition Plan Fails to Incorporate Vital Stakeholder Input
   The State devoted 4 pages of its 16-page plan to the listing of interactions held between the State and stakeholders. However, the State failed to include

important recommendations provided by stakeholders participating in its Statewide Transition Plan (STP) Workgroup within its transition plan, including:

1. The need to ensure adequate funding for providers within its revised service delivery model
2. The need to provide training for providers on the State's revised service delivery model
3. The need to provide information/technical assistance for families and guardians on the State's revised service delivery model
4. The need to concretely establish revisions to the service delivery model before requiring providers to complete transition plans
5. The need for specificity in the State's Transition Plan
6. Utilization of provider experience in developing the details of the State's Transition Plan
7. The need to address the safeguarding of critical service capacity while introducing a revised service delivery model
8. The need to ensure transparency in the State's planning process

Clearly, the incorporation of this valuable feedback would have assisted the State in preparing a more comprehensive Plan. However, the above recommendations urged by stakeholders remain largely unaddressed in the State's Transition Plan.

3. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") The recommendations from the workgroups were not incorporated into the plan as well as recommendations for additional funding to establish a successful transition plan to implement the changes called for.

4. Include all comments and recommendations by the Final Rule workgroups. As written, the draft STP does not contain any of the thoughtful considerations generated by the Final Rule workgroups. They dedicated much time and effort to assisting the State in this process, but appear to have been disregarded. We recommend that the State thoughtfully consider all comments received from the workgroups and public comment periods, and revise the draft STP accordingly. We do not expect the State to include all recommendations, but do expect to see a reasonable share of revisions based on these recommendations/comments.

5. **Statewide Transition Plan Workgroup:**
The summary of recommendations on the KDADS website was well done. The responses are clear, but there are a couple of points to pull out, in particular. The first is the "no resources available". This is of great concern because it doesn't seem possible to do all of the work and changes and technical assistance, etc. with zero money. It doesn't make sense. In the same vein, some providers may need some financial help to retool, otherwise we will lose capacity, especially in rural and frontier areas of the state. Larger, urban providers may be OK with their own resources, but the small, rural providers deserve some help. The second point to emphasize is the state response to the need to bolster self-direction as part of "most integrated setting" efforts. The state says it supports self-direction succinctly and clearly, but the facts are that numbers of people self-directing (especially participants on the IDD and FE Waivers) have been decreasing while, at the same time, polices and regulations have become more medical-model. The FE Waiver and related regulations has been mentioned as one egregious example. Other examples include ignoring state laws governing the right to self-direct HCBS, restrictive, medicalized service definitions in the PD Waiver and rules that tend to require beneficiaries to have to stay in the home instead of also freely accessing the community and receiving needed assistance there.
A final comment on this section is that the summary of recommendations and responses was not very easy to find because its label is not descriptive of the content. This information and recommendations needs to be incorporated directly into the body of document and the actual, complete recommendations

need to be appended to the plan at least as another hot link. 6. A final, general issue to note is that as of the time of this writing, none of the aforementioned HCBS Settings Rule workgroups recommendations have been included or discussed within this draft document. This is an oversight that needs to be rectified.
5.

Other Transition Plan Comments:

There were 14 other/uncategorized Transition Plan comments, two of these were related to comments provided for the first draft of the Transition Plan and two were related to addressing additional funding in the Transition Plan. The remaining comments were unique.	
Comment/Summary	**State Response**
1. Can the STP be put into plain language?	Unclear on the ask. The state has attempted to make the STP as easy to understand as possible.
2. Original Concerns Regarding the State's Transition Plan Remain Unaddressed Worth including in this feedback are concerns expressed by [PROVIDER] to the State of Kansas more than two years ago regarding compliance with settings and transparency. The original comments shared by [PROVIDER] regarding compliance with new program setting requirements included the following: "The proposed transition plan describes a process to review existing CSP settings for compliance with the HCBS Final Rule. A process for the review of new programs or new CSPs would also be advisable. At this point it is difficult to proceed with new programming options (e.g., the location and supports for individuals with Alzheimer's or dementia) without a better understanding of what is allowable. The rate structure will need to be adjusted to adequately reimburse CSPs for more individualized supports and services. n terms of settings, we emphasize the need to consider the choice of the person receiving the service. Individuals should be provided an array of service options (including facility-based settings) in order to allow them to determine which setting best meets their needs. Setting size or location should not be the determining factors, rather the individual's opportunity for choice in order to obtain their desired quality of life and level of community integration. Any transition plan should take into consideration personal characteristics such as chronological age and past service experience. For example, over 80% of the 31 O individuals served by [PROVIDER] day and residential services are over the age of 40 and experience challenges integrating into the community workforce." Further, [PROVIDER] expressed the need for a high degree of transparency on the State's part regarding vital data needed by providers to adequately respond to the needs of persons served: "Now that the /DD system in Kansas is operating in a managed care structure, which includes many partners, we stress the importance for transparency at all levels. In the past, KDADS published monthly summaries showing the number of individuals	The state as revised the STP to more increased details and specificity.

served by GODO catchment area, numbers of those residing in institutions as well as the waiting list. In order to maintain an open and transparent system, we recommend a return of the monthly summaries or a similar mechanism to make sure we are all accountable to those we serve." Unfortunately, in the intervening two years, the State of Kansas has not made that data more freely available to providers, and has not included targets for improving the flow of such information as part of its Transition Plan.	
3. Our primary observation is that there has been an unnecessary amount of time wasted by HCBS stakeholders in pursuit of this process. KDADS has received numerous public comments and recommendations from [State Association] members and other HCBS stakeholders; however, we are not aware that any of these comments were incorporated into the initial draft plan submitted to (and rejected by) CMS, nor does it appear that any provider comments have been incorporated into the most recent plan put forth.	The state as revised the STP and more clearly integrated work group suggestions.
4. (Response to online feedback form question “What do you like about Kansas' Statewide Transition Plan?”) Directs services in Kansas to a more person-centered approach	State agrees.
5. (Response to online feedback form question “What do you like about Kansas' Statewide Transition Plan?”) The Transition plan appears to address most of the technical concerns to bring physical facilities into compliance.	State agrees.
6. (Response to online feedback form question “What do you like about Kansas' Statewide Transition Plan?”) it is well organized	State agrees.
7. (Response to online feedback form question “What do you like about Kansas' Statewide Transition Plan?”) Not much. Very hard to read and especially hard for families of individuals to decipher or individuals who have no family and only an MCO care coordinator. Would that be fair and balanced?	Comment noted.
8. (Response to online feedback form question “What do you like about Kansas' Statewide Transition Plan?”) most are basic rights that all people should have and make sense.	State agrees.
9. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) The concern I have is nothing wrong with seeing it on paper as a blueprint, however, seeing it in action is always the concern and who's going to be the TCM, MCO, HCM, and the care coordinator running the	Comment noted.

plan for the child(s) or adult(s) with SHCN!!	
10. Self-direction – Kansas was an early pioneer in this area. State law gives individuals, aged 16 years and older, the right to choose the option to direct and control their HCBS services to the maximum extent feasible. This law provides this right without regard to aging or disability label. Nowhere in the draft document is this important right to this option discussed. This oversight is of increasing concern because numbers of individuals choosing this option have trended downward since the advent of KanCare. This is especially troubling for the IDD and FE Waivers. Compliance with the "Rule" is about individuals, people being served, in the MOST INTEGRATED setting, not just providers' settings meeting de minimus requirements. A related concern is the soon to be sunsetting of the federal/state Money follows the Person (MFP) program that assists individuals with moving out of nursing facilities and other institutional settings and back into their own homes and communities. There is no mention of this issue and any impact it will have on choice of "most integrated setting". There needs to be discussion and planning of this potentially huge, negative impact on individual choice and the most integrated setting. What will replace MFP in Kansas? How? When? For which populations? Etc. etc. Concern for the above mentioned two issues is especially acute given reports that nursing facilities in Kansas are filling up while the last data provided by the state about MFP's numbers of people moving out of institutions, showed a precipitous drop; a drop of 50% compared to the previous year. These numbers dropping so radically indicate a lack of focus on the most integrated setting, currently, while the MFP program still operates. This lack of focus bodes very ill indeed for when the program and its enhanced federal matching funds no longer exist. Yet another related issue is the growth of a waiting list for the Senior Care Act (SCA). While it is true that the SCA is wholly state funded and is perhaps not technically within the purview of this "HCBS Final Rule", it is worth mention and discussion of its intended purpose; to prevent or delay seniors from needing Medicaid funded HCBS or institutional services. Its purpose is to assist seniors with remaining in the most integrated setting. This alone makes the SCA worthy of being included in this document. This is especially true due to	Additional clarity added.

the fact that the advent of a waiting list has caused a few individuals to have to enter nursing facilities. The waiting list for the IDD Waiver has been a long standing problem. It deserves attention and development of a plan with milestones and timelines that will make significant progress over a period of time. It is understood that a decades-long issue will not be resolved overnight, but while folks that are waiting are mostly in the "community" being assisted by family, this is basically a survival mode to get by until services can start. It is highly doubtful that waiting for years to get all of the services needed represents the "most integrated setting"; not to mention the requirement of the Americans with Disabilities Act (ADA) that wait lists must move "at a reasonable pace". [Independent Living Center] has for years sounded the alarms over lack of affordable, accessible housing and lack of affordable, accessible transportation. Both of these issues have enormous impacts on individuals' rights to live and receive services (including the right to control and direct services) in the most integrated setting appropriate. Despite many conversations in the above mentioned work groups, despite testimony and input over many years, it is disappointing that neither issue is even mentioned, much less addressed, and no efforts towards solutions planned. The "most integrated setting" cannot be adequately planned for unless housing and, especially rural, transportation are included in the work plan.	
11. [Independent Living Center] appreciates the work that went into this draft, especially as it compares to the previous draft, and stands ready to assist the state and its community members in any way we can with compliance efforts.	Thank you!
12. There is also a significant need to address both employment and housing, which are not specifically addressed in the plan. There is a significant opportunity to improve employment outcomes for participants who utilize these services. Several stakeholder and blueribbon study groups have made detailed recommendations to improve employment outcomes of Kansans with disabilities. These include recommendations made by the Employment First Oversight Commission, the Kansas Council on Developmental Disabilities, the Big Tent Coalition and the Developmental Disabilities Coalition	Agreed.
13. The plan does not address the need for additional funds for transition services to be better integrated in the community. Some services will require higher staffing ratios to be better integrated in the community as opposed to a	The state will proceed forward under the assumption there is not additional funding available for STP requirements.

facility-based setting. There will also be additional costs in the transition period as providers make changes to services, train staff, and revamp programs to address the rule. Those costs are not included in the existing provider rate structure.	
14. Plan fails to address to added fiscal burden of the Final Rule and subsequent consequences. As written, the draft STP is silent regarding the Final Rule's potential negative financial impact on HCBS providers. We are not ignorant to Kansas' significant fiscal challenges, but such omission is both irresponsible and unreasonable. We strongly urge the State to address this issue within the plan.	The state will proceed forward under the assumption there is not additional funding available for STP requirements.

Comments not about the Transition Plan, sorted by topic:

Rates:

1. As a long-standing provider of services in Kansas (more specifically in Northwest Kansas), deep concern remains with the State's funding of the IDD community system. Any Transition plan must address the inadequacy of the rates in this system. With the most recent change in the Residential Pay policy, the urgency to address the funding needs of the IDD system is paramount.

2. A common theme in the feedback to the workgroups has been that implementation of the plan will not involve the allocation of additional resources by the State. If that is accurate, it will be a very large barrier to overcome. As has been the case with the planning process itself, dedicating very limited resources to a very big task means that progress will be slow and outcomes will not likely meet expectations.

3. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") While the State's fiscal problems must be considered, if additional funds are necessary to bring about full compliance, the plan should address this. The plan could acknowledge that funds are not available at this time but outline a process to reach the funding goal.

4. (Response to online feedback form question "What else should Kansas keep in mind?") With the state losing fundings year to year, there should be some alternatives to working out the new plans going ahead of 2017! Hopefully, there will continue to be more discussions that will show an increase and not a decrease when it comes to the transition plan!! If communications are lost, then the plan may not be as successful as it is shown on paper!!

5. (Response to online feedback form question "What else should Kansas keep in mind?") The transition will take additional monies to successfully support individuals affected by the final rule changes to transition to different delivery methods of quality services.

6. (Response to online feedback form question "What else should Kansas keep in mind?") It would also be nice if Kansas would re evaluate Attendant Care Services rate for providing in home services. Our agency is currently looking into other options such as other states to provide HCBS services.

7. [Independent Living Center] also hopes that the 2017 Legislature see the immense benefits that most of the individuals with disabilities HCBS Waivers and that increasing funding for all the HCBS waivers in fiscal years 2017, 2018 & 2019. Adequate funding for all the HCBS Waivers will provide current customers and additional individuals with disabilities to realize true Independent Living, potential employment and the ability and pride that comes with being contributing members of the individual's community of her or his choice.

8. **Overall comments:** There are a great deal of changes needed to move all HCBS into Integrated Settings, which is the direction we should definitely be moving. This transition plan is making progress by at least through discussion at this point. The biggest obstacle is funding. I do not see real compliance happening without funding for more integrated services.

Sheltered Workshops/Settings changes:

1. I am the parent of an adult child with I/DD. I also serve on the KanCare Friends and Family Committee, and was just appointed to serve a second term on the Kansas Commission on Disabilities Concerns. In addition, I have served for almost a decade on the local board of our community I/DD service provider; [Provider], Inc.

   I would like to tell you about my daughter, and explain the importance of maintaining community Work Centers (sheltered workshops) as a funded service option and choice for my daughter and other I/DD consumers. To protect her privacy, I will call my daughter "[client]." For almost 15 years she has received a variety of services from [Provider], none of which has been more important and valuable to her than her employment at the [Provider] Industries Work Center. During her time at [Provider] I have learned so much from [client] and her fellow consumers about their goals and dreams and how they want to live their lives. What many people do not understand is that their goals and dreams for their lives are pretty much just like the rest of us; they want meaningful work, to spend time with friends and family, and to engage in activities and hobbies they enjoy. The only real difference between consumers and the non-consumer population is that consumers need more support to help achieve those goals than the rest of us.

   At [Provider] Industries, consumers perform meaningful, important work every day. The benefits of this work are many, as are the benefits of the overall work environment. [client] earns a paycheck. She is a taxpayer. She pays rent, buys groceries, goes to the movies, takes art classes and goes to dinner with friends. She shops for craft supplies at Hobby Lobby and clothes at Walmart and Kohl's. The work is diverse and includes responsibilities such as sorting, packaging, labeling, and shipping product and materials for companies in the region and throughout the country.

   The work [client] does through [Provider] Industries is a critical part of [client]'s life. [Provider] serves as a "hub" for consumers. Some, like [client], work only at the Work Center; others (about half) work part time at [Provider] Industries and part time at a community job. [Provider] also has a successful community employment program, JobLink, which places consumers in jobs in the community. For many consumers this is a good option, and through effective job coaching they are able to sustain those jobs. There are also a number of consumers who are not capable of qualifying for or sustaining a community job regardless of the level of support.

   To date, [client] has been in that latter category. She has held several part time community jobs over the last two decades since she finished high school, and most of those experiences have not been positive. She tried fast food jobs, which did not work out because she could not follow more than one or two instructions at a time. When her job coach was there she was told what to do each step, but once the coach was gone, she would often just wait to be told what to do. That required almost constant supervision, which reduced productivity among the other staff members. She was being paid the same wage as those staff members, and they would often resent needing to help my daughter with her work, or having to constantly remind her of what to do. She tried clerical work, but could not manage more than one phone line at a time, and would panic and hang up on people or leave them on hold if she did not know the answer to their question. This is a familiar story for many consumers, they are able to sustain community jobs with intensive job coaching, but once the coaching hours are over, they can't sustain the job, or their hours are cut to almost nil.

   While [client] is not atypical, there are a number of [Provider] consumers who are able to sustain community jobs. Even for those who do hold part time jobs however, the vast majority want to continue to work at [Provider] part time. [client] has recently told me she may be ready to try to find

another community job, but she is adamant that even if she is able to achieve success in that effort, she wants to continue at the Work Center part time. Virtually all consumers share that objective, because the Work Center is where they have their social life. They may be supported and accepted by their mainstream community employers, and [Provider] has a number of awesome community partners, but the employees at those companies typically do not spend time with consumers after work or on weekends. Consumers do not become close friends with the staff at their community jobs. Consumers are not invited by their community co-workers to get a cup of coffee after work or go to a movie or spend any time socializing. Consumers like my daughter need the social networking opportunities that their [Provider] workplace gives them. That is where they have friends and that is where they organize activities. That is where they make plans to take an art class or go to dinner or the community theater. That is where they talk about where they will go to hang out and watch the game, or when they will go shopping, or take a trip to Branson or even a Disney cruise.

This social aspect is crucial for all of us, and consumers are no exception. They need this peer interaction and socialization, and being part of the [Provider] Work Center is where they find that critical network. One of the items on the "Review" column on page 54 of the IDD Facilities sheet states that "Per policy/regulation, is the participant provided the opportunity to schedule and attend activities/appointments (work, social, medical, etc.) at their preference?" The regulation on the next column after the data source states in (C) what work or other valued activity the person wants to do…… (a) (2) (D) with whom the person wants to socialize…" The Work Center is where that socialization occurs and that is where my daughter and other consumers choose to work, to meet their friends, to socialize, and to make plans to attend and participate in a variety of community activities.

I would also mention one more important reason that I believe the Work Center is a vital part of the lives of consumers, and should continue to be funded. Work is the only place where consumers will ever have a chance to meet "someone." My daughter is 41. Most consumers are like my daughter; they never had a date for prom or a school dance, and they have never had a "special" relationship. At the same time these are people with the same hopes and dreams for finding a special connection as the rest of us have.

The Work Center is the only place where developing this kind of relationship is even a remote possibility. At work services consumers meet and get to know others with similar interests, functioning levels, and lifestyles. Two years ago, [client] had the first boyfriend of her lifetime. My daughter and her boyfriend would sit together at lunch and work breaks, and they hung out together at Special Olympics practice. Occasionally they were able to have a "date" such as when his mom and I took them to lunch at Jason's Deli and we sat at one end of the restaurant and let them have a booth at the other end. I can't begin to explain the difference that relationship made in my daughter. It covered everything from becoming more motivated to lose weight, asking if we could join a gym and work out together, brushing her teeth without having to be reminded, to even needing fewer behavioral health appointments and no longer needing her anti-depression medication. All of this made her a healthier person; physically and emotionally and mentally.

The relationship did not last, and they broke up after a few months. It was a difficult time for both of them, but [client] still has nice memories of that relationship and how wonderful it felt to be "in love." The good news is that she believes it might happen again and she has continued to work out at the gym and maintain some of the other positive habits she developed during their time together.

Consumers would have no opportunity to meet anyone special or develop this type of relationship if it were not for work services. There are a number of [Provider] "couples" who have found their special someone at work.

The Work Center is the preferred employment choice for many consumers, as well as being the hub of their social lives. While a community job works for some consumers, the concept that it is the only option, or best fit, for all consumers is simply not viable on multiple levels. It is patronizing, and assumes to "know" better than consumers what is best for them. It also assumes that there is an available community job for every person with a disability, which is obviously not feasible. There are not enough jobs in any city in our country for people, with or without disabilities, to have a zero unemployment rate. Having every consumer have a community job would also place a huge financial burden on communities, states, and the federal government to provide job coaches and personal attendants for the many consumers who need intensive supervision and supports.

If the Work Center were to be closed, my daughter and other consumers would no longer be productive, happy, social human beings who enjoy their jobs, feel fulfilled, making a contribution to the company that hired them, and paying taxes on their wages. If the Work Center were closed, my daughter would sit on her couch, watch too much TV, eat too much, her diabetes would worsen, she would no doubt end up on insulin, and she would become depressed and need therapy and medication. She would become very expensive for the system. It is even conceivable that I would need to quit my job to care for her. That would take me out of a productive professional career and limit my ability to be an active community volunteer. In either case, two currently productive employees would become one, lives would be damaged, and the state, as well as our community and our family, would suffer financially.

The entire goal of the [Provider] organization is to provide an environment where consumers can reach their fullest potential, which means giving them choices. The system we have in place offers [client] and other consumers the maximum options for meaningful work, and the choice they make to be employed at Work Center gives them a life that most closely resembles the lives we all choose, full of friends and opportunities for social networking. They are productive and proud, and the community, taxpayers, and the state are the better for it. Please support the flexible interpretation of these new "settings" rulings to allow the Work Center to continue to be a funded service for my daughter and her peers. This will allow consumers the most choices, it will allow consumers (and their families) to be productive tax paying members of society, and it will save our community and our state and our country money in the process. Thank you for your service to Kansas.

2. My Daughter is a consumer at [Provider]. She and many of her friends and coworkers have or have had part time jobs in the community but are not able to do a regular job due to physical and mental disabilities. The work center is a wonderful environment and offers them the opportunity to have a useful fulfilling like. Without this I fear the days would be wasted away watching TV, coloring and having no sense of purpose. I strongly encourage you to keep provisions in your plan to keep the work centers going.

3. I am writing this letter today regarding the Kansas Statewide Transition Plan. I think I have a very unique perspective as I have a Daughter with special needs and I am a small Businesses owner with employees. Also I have been on the Board of Directors for [CDDO] a CDDO for ten years, so I see all sides. As a small Business owner, it seems you do not understand how hard it is going to be to find work for some of these Consumers.

As a parent I will use my daughter as an example, to look at her you would not know anything is wrong with her but she has short term memory loss. She got a Job at McDonald with the help of Work Force. Her shift Supervisor was only three years older than her at the time. The Supervisor would tell her four things to do and she would only remember the last one. They had been told of this. But still my daughter was yelled at and made fun of. I see this happening to other Consumers.

As a Business owner it is hard to Justify Employing Consumers as employee's as they cannot produce enough to earn the minimum wage, no matter how hard they try, they are just not fast enough. In today's economy that will make a big difference to the business owner.

For the States side of this it seems very wasteful as well. Where you can have one CDDO employee, watching eight to ten consumers at a time as they work for the day at [Provider], in an environment where they feel comfortable and they are safe from abuse. With the way you are proposing it would almost have to be a one on one so the consumer will be able to keep any jobs you find and not get abused in anyway.

Looking at this from the Board of Directors side, in my opinion this plan is going to rob a lot of consumers of their dignity and self-worth. Being able to feel good about them self as they earn their own paycheck. I can tell also tell you from the parent side how much that means to them and how proud they are to have a job they can do. To take them out of a place that makes them feel like everyone else in this world makes My Heart Break. To take away a safe place from them where they can laugh and enjoy going to work and seeing their friends and not being judged by everyone that looks down at them and the risk of being made fun of. Sending them out to be possibly being abused is just not right! Let them keep the enjoyment in having a job along with their dignity, self-worth, and how proud they are that they did it on their own.

4. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") You do not take into consideration those who do not want to or can not work. You are trying to cram everyone into a one size fits all day service or force people to work when it is not reasonable.

Comments about the Final Rule:

1. I want to clarify, CMS put the final rules in place, I think that it would be important that they understand that CMS didn't pull them out of air. This is all part of the ACA that was implemented in May of 2010.

2. As legal guardian for a profoundly disabled loved one served in community for many years, thank you for your concern for serving persons with disabilities. I respectfully submit the following comments.

   CMS Final Rule should adequately reflect the scope and breadth of integrated settings clearly provided in the 1999 Olmstead ruling which includes considerations for safety, supervision and variety in "the most integrated setting possible for that person."

   Discrimination against portions of the disability community currently occur by forcing ideological interpretation and policy that excludes settings critical for their safety.

CMS Final Rule:

1) Fails to recognize realities in the field for persons with profound forms of autism.
2) Limits settings that would provide access and choice to individuals in need of specialized supports that provide freedom and pro-active safety solutions.
3) Discriminates against those with autism who exhibit extreme, maladaptive behaviors such as wandering, running off, and those who have no sense of danger.
4) Limits choice necessary for those with greatest needs: Settings deemed appropriate by CMS vilify farm-like settings and gated communities as isolating, while refusing to recognize creative, professionally determined and proven solutions critical for the safety of these individuals.
5) Violates Supreme Court Olmstead clarifications to honor choice, supervision, safety, and the need to make decisions on a "case by case basis."

Quoting from the Final Rule document regarding settings: "The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint." 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)

Rights and Respect

Rights are only ensured by first resolving core, systemic deficiencies. This includes addressing reasons for the lack of retention of Direct Support Staff, insufficient professional and State oversight affecting the success of Support Staff serving in communities across the country, and the effect staff rationing has on safety.

The pervasive, stagnant wage problem now rests on Department of Labor's promise of "minimum wage" - a profoundly inadequate solution to retain staff caring for those with the most extreme forms of disabilities. Inconsistent staff diminishes the quality of life.

Why would one stay at a thankless, underpaid job, when one can retain employment at a department store or fast food restaurant without having the weighty responsibilities of caring for the most difficult-to-serve individuals living in the community?

Examples

Individuals with profound autism routinely exhibit extreme, maladaptive behaviors such as face-pounding, eloping into heavy traffic areas, etc. Many group homes are located adjacent to busy streets, a setting deemed unsafe for these individuals.

It appears other non-verbal, medically fragile persons unable to self-advocate are being marginalized by the CMS Final Rule. Direct Support Staff are often not retained long enough to understand the nuances and needs of non-verbal individuals who cannot speak or defend themselves, nor are there sufficient provisions in many States for adequate oversight of such vulnerable individuals living in community.

Choice and Safety

Farm-like settings often provide the quiet environment and range of movement for individuals with autism, yet these are vilified by CMS.

The founder of the [redacted] denigrates such solutions for this portion of the autism population with whom he apparently is unfamiliar.

As a member of the National Council on Disabilities, this same individual who purportedly has a diagnosis of autism, fails to recognize the profound needs of his peers on the severe/profound end of the autism spectrum. His influence of ideological policy- making upon CMS and other federally funded HHS entities is extensive yet shortsighted. This ideology results in discrimination against our most needy by ignoring realities faced by dedicated parents struggling to keep their loved ones safe.

The safety net of grounds and gated communities are apparently misunderstood by CMS and others as it pertains to this portion of the DD population. Knowledgeable professionals trained in behavioral supports serving those with extreme forms of autism have determined the need for creative, safety-solution settings such as those now deemed by CMS as "isolating."

Further, the lack of recognition by CMS to honor the scope and need for choice in these proven, successful settings is alarming.

Unaddressed Deficiencies

Final Rule settings ignore unaddressed issues related to pervasive systemic deficiencies:

1. Decade long, Direct Support Staff wage stagnancy
2. Direct Staff community turnover rates - currently exceeding 50%
3. Inadequate oversight of scattered homes across states
4. Mounting documentation of tragic, nation-wide community abuse and deaths
5. Insufficient abuse, neglect and exploitation (ANE) incident reporting systems
6. Lack of comprehensive, nation-wide background check requirements

Outcomes

Outcomes cannot be adequately measured without first addressing internal deficiencies that currently place the weakest into harm's way through inadequate incident reporting. Will CMS truly assess "outcomes" without correcting inadequate State ANE reporting systems?

Ignoring above deficiencies creates an environment for isolation and unreported abuse in community settings. Incidents will tragically continue to be significantly under-reported and create further isolation which we are seeking to eliminate. Additionally, staff rationing, high turnover and nation-wide reporting deficiencies in community settings hinder CMS goals for inclusion and better outcomes.

Discrimination

The CMS Settings Final Rule, while commendable in creating support and focus for higher functioning individuals, is unfortunately, discriminatory in nature for those with the most profound forms of disabilities and those most difficult to serve.

Final Rule in its current form marginalizes those who most need oversight and protection in the Community, and violate the civil rights of the weakest among us. It ignores their unique needs for supervision, safety and other care provisions clarified by Supreme Court Justices in the Olmstead ruling. Documentation of all claims and statements in this Public Comment are available upon request.

3. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") Some concerns about those residents with dementia having a stove/oven in their room, many times they have left those on at homes before. DD- when and what to eat, how does that work when someone has a Dx of an eating issue, such as prader willi?

4. Beyond the process that Kansas has used, it seems necessary to point out that the Final Rule makes assumptions about the people who use HCBS programs that may or may not be accurate. Persons who utilize HCBS services must have some sort of qualifying condition, however most are also challenged by either low income or very low income. Being active and involved in your community is a good concept, but doesn't mean as much if you can only be active and involved within walking distance or at destinations that be accessed at little or no cost. A daily reality for some people who utilize HCBS services is that they will require assistance to use the bathroom. If "assistance" means that you need someone to help you find a stall and make use of it, that's a barrier that isn't too difficult to overcome. If "assistance" means total care on an adult-sized changing table, it is going to be pretty difficult to find that sort of bathroom at the mall, the ballpark, a museum, the local university, or pretty much anyplace else.

5. Access to employment also seems to be an area of misunderstanding and disagreement in the Final Rule and the Kansas draft plan. Sheltered workshops were quickly identified as program locations requiring heightened scrutiny, with the suggestion that they are not an appropriate service option and will need to change in order to comply with the Final Rule. If that is the intent of this process, that is truly unfortunate. While there should be pretty broad acceptance that no one who has the desire and ability to work at a community job should instead be limited to employment in a workshop program, there are many other important considerations:
    - Are there community employers willing to hire them?
    - Can they secure enough working hours at a community job to sufficiently meet their desire to work?
    - Some people like to work, but do so at a pace that won't meet the minimum requirements of a community employer.
    - The level of support that some people need to engage in paid work is greater than can offered at a community job.
    - If you attempt competitive employment and are not successful, a workshop program provides a backup plan until the next opportunity comes along. Making a judgement that someone either needs to have a competitive job in the community or instead participate in unpaid activities of some kind ignores thousands of people who have some ability to work, need extra assistance to do so, don't want to participate in alternative activities all the time, and feel a sense of pride when they earn a paycheck. This process shouldn't be about removing options that people rely upon, but rather making sure that those who are in need of something more or something different are given the assistance they need to make that happen.

   The following information was copied directly from the Medicaid.gov web site, and seems to do a pretty good job of describing realistic expectations of HCBS services:

State HCBS Waiver programs must:

- Demonstrate that providing waiver services won't cost more than providing these services in an institution
- Ensure the protection of people's health and welfare
- Provide adequate and reasonable provider standards to meet the needs of the target population
- Ensure that services follow an individualized and person-centered plan of care Somewhere along the line someone seems to have added an extreme interpretation to that description to suggest that people who utilize HCBS to live in the community of their choice won't also need specialized programs or services that allow them to be successful in that community.

6. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") It does not take into consideration different settings are needed for different individuals.

Other Comments

1. Settings which are deemed "community" in nature by CMS are often understaffed with under-trained, underpaid direct support staff. Such presumed community settings are not only isolating; they are often dangerous.

   Direct Support Staff are often expected to provide DD clients with opportunities for community interaction, yet are greatly hindered in doing so due to:

   1) Anemic professional training of Direct Support Professionals (DSP)
   2) Lack of professional supervision and guidance for DSP staff
   3) DSP staff liability for DD individuals with complex support needs
   4) Inadequate staff ratios necessary for the safety and success of extremely fragile DD clients, and individuals who exhibit extreme maladaptive, dangerous behaviors. Such disincentives create an environment for increasing unreported abuse and higher staff (DSP) turnover rates.

   Suggested solutions:

   In addition to making appeals to state legislators for assistance in remedying our state's stagnant direct support staff wage crisis, KDADS and KDHE should consider making appeals to CMS to acknowledge their (CMS) Federal fiduciary role, CMS' placing undue burden on cashstrapped states, and that CMS should assist with financial remedy to address the overlooked, nation-wide systemic issues mentioned above.

2. (Response to online feedback form question "What concerns you about Kansas' Statewide Transition Plan?") age limits

3. (Response to online feedback form question "What else should Kansas keep in mind?") lowering ages on who can use it

4. (Response to online feedback form question “What else should Kansas keep in mind?”) That providers are at capacity and buried in MCO paperwork. MCO's scored a tremendous win with health home money. Stolen cash with absolutely no supports. Glad Health Homes "slipped away".
5. (Response to online feedback form question “What else should Kansas keep in mind?”) KanCare is sucking the life out of HCBS and costs too much for providers in admin costs.

6. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) We were assessed at the end of December and the assessment was conducted in a very disagreeable manner and based on a couple of provocatively phrased questions (and accompanying grimaces) related to 14c DOL law and whether we consider the people we support to be employees of our agency it

   was apparent that the lead assessor did not philosophically agree with our service model. (Commensurate wages are a legal way to pay based on productivity and individuals who work in facility based work are not employees because we cannot hire or fire them and they do not receive KPERS benefits or health insurance the same way that staff do.) We tried to present evidence of the high degree of concurrent community employment with people who also attend the work center during part of their workweek, but that evidence was not of interest. Rather what transpired was a argumentative critique of the way our written policies were organized and presented and a disallowance of a consumer friendly policy manual as official policy. The assessment was extremely rushed as the team was visiting multiple sites and providers in the same day, obviously trying to meet their deadlines. The lead assessor did not explain their purpose at the initial point of contact, nor was anything summarized at the end, nor any follow-up offered. It felt very much like a "gotcha" exercise rather than a collaborative one. KDADS policies are not yet completed as per the Transition Plan schedule so I don't understand such a rush to judgment towards providers. This experience gives me pause as to the "proactive approach for engaging stakeholders" as is the written intent in the draft plan. I am hoping that this was simply a bad day for this team and collaborative work will ensue down the road.

7. (Response to online feedback form question “What concerns you about Kansas' Statewide Transition Plan?”) Concerns are up rooting participants or denying services if provider won’t meet the new rule. I think it would affect the participant in a negative way.

8. Written agreement that applies to the landlord and tenant act?

9. Do we need a policy that outlines when a provider is unable to or unwilling to comply or is unable to remediate for final rule?

10. As an MCO, when I’m working through the credentialing process with a provider who is requesting heightened scrutiny, what does that look like?

11. The State of Kansas should also use this as an opportunity to address the disincentive that exists in the current system from helping participants transition to less intensive services. If a provider is successful in helping a participant to no longer need their services, they are rewarded by losing a client and also losing revenue.

12. Another area of concern involves the current process that allows providers the right to refuse to serve participants who they feel they cannot serve. We have seen instances where this is being selectively used to evict/remove participants the provider decides they no longer want to serve. The participant does not have any recourse or appeal of the provider's assessment of the individual's needs. We would recommend significant additional protections for participants to have the right to an independent assessment. The ADRCs could be contracted to provide this important safeguard. Doing this will help manage an important risk the State is creating by not having such safeguards.

13. Lastly, it is important for State of Kansas to ensure capacity in the entire HCBS system. Many advocates contend Kansas is not collecting the right data to truly measure the adequacy of the provider network today. While there are lists of providers by county, what is missing is an effective measure of network capacity and a way to measure the number of providers who are actually accepting new participants when compared to the disability population in their service area. Our concern is that without a plan to ensure adequate capacity there will be consumers without any options if their setting is found to not be complaint and the provider is unwilling or unable to remediate it. What safeguards will the state utilize to ensure there is adequate capacity after the rule is in effect? The plan needs to also address this concern.

14. https://www.medicaid.gov/medicaid/hcbs/downloads/q-and-a-hcb-settings.pdf Question 4, page 10 Does the regulation prohibit facility-based or site-based settings?
    Answer: **"No."**
    "The regulation requires that all settings, including facility- or site-based settings, must demonstrate the qualities of HCB settings, ensure the individual's experience is HCB and not institutional in nature, and does not isolate the individual from the broader community. In particular, if the setting is designed specifically for people with disabilities, and/or individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them, the setting may be isolating unless the setting facilitates people going out into the broader community."
    "We note, however, that states have flexibility in determining whether or when to offer HCBS in facility-based or site based settings, as the regulation only establishes a floor for federal participation."
    Question 5, page 10 Do the regulations prohibit individuals from receiving pre-vocational services in a facility-based setting such as a sheltered workshop?
    Answer: **"No."**
    "Therefore, a state could allow pre-vocational services delivered in facility-based settings that encourage interaction with the general public..."
    "We note, however, that pre-vocational services may be furnished in a variety of locations in the community and are not limited to facility-based settings, **and that states have fexibility in determining whether and when to use facility-based settings."** Question 6, page 11 Will CMS allow dementia-specific adult day care centers?
    "The HCBS regulations do not prohibit disability-specific settings...the setting must meet the requirements of the regulation, such as ensuring the setting **chosen by the individual** is integrated in and supports full access of individuals...to the greater community..." Question 7, page 11 Can a day service that has both HCBS waiver participants and ICF residents provide Medicaid-covered HCBS in an ICF/IID?
    "If the state believes that the setting meets the HCB settings requirements and does not have characteristics of an institution, **the state can follow the process to provide evidence and demonstrate that the setting can or will comply with the HCB setting requirements or regulations."**

15. **Compliance of adult day and residential settings for personalized participant planning specific to wandering or exit seeking:** The need to protect the welfare and safety of an adult with dementia who wanders and seeks to exit a unit or facility must be balanced with the very human need for movement and freedom. Further restrictions adopted should be well defined and limited, and require appropriate training for all staff and volunteers, as well as require documentation of every adaptation made to avoid such a breach of individual freedom, length it was employed and impact on the resident of each alternative attempted. If a facility is depriving an individual of their legally guaranteed right to freedom, the facility must notify the survey unit for its review documentation of all prior alternative actions taken and the impact on the resident of this restrictive action. A locked unit which equally restricts all residents in a unit would not meet the individual personcentered service plan requirements.

16. **Complying with Person Centered Service Plans** clearly presumes adequate staff who are trained and knowledgeable about the requirements of the Final Rule. This is an area for innovation and improvement.
    Current evidence-based recommendations for dementia care staffing ratios range in a residential setting from 5:1 participants to staff and in adult day settings -1:2 or 3 participants to staff. The range depends on the person's specific needs relative to the disease process and their individuality.

17. [STATE ASSOCIATION] asks the State, and by extension CMS in its approval role, to address State policies which impact HCBS consumers housing, transportation and personal choice as it works toward compliance with the Final Rule. [STATE ASSOCIATION] and consumers welcome the opportunity to engage and discuss this and all recommendations for improvement of the existing program with State staff.

18. One of our major questions has to do with licensure and certification of providers in Kansas. We would like a better understanding of the differences and similarities between state licensure of providers and certification of providers by the Managed Care Organizations as stated in the Kansas HCBS Transition Plan. ***Please provide us with the guidelines to achieve licensure by the state and the proposed credentialing process that will be conducted by the Managed Care Organizations.***